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ORIGINAL

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES



Department of Land Management Conference Room ITC Building, Tamuning



Thursday, December 14, 2017 1:40 p.m. to 7:25 p.m. (GLUC) 3:50 p.m. to 5:00 p.m. (MCoG DLM 2018-01) 5:20 p.m. to Recessed (MCoG DLM 2018-02)

GUAM LAND USE COMMISSION Regular Meeting

Thursday, December 14, 2017

Department of Land Management Conference Room 3rd Floor ITC Building, Tamuning

GLUC MEMBERS PRESENT:

Mr. John Z. Arroyo, Chairman

Mr. Victor F. Cruz, Vice Chairman

Mr. Tae S. Oh, Commissioner

Mr. Hardy T. Vy, Commissioner

Mr. Michael Borja, Executive Secretary

Mr. Nicolas Toft, Legal Counsel

Hybrid Commission [MCoG DLM 2018-01]

Mayor Louise Rivera, Tamuning-Tumon-Harmon

Mayor Melissa Savares, Dededo

Mayor June Blas, Barrigada

Mayor Jessy Gogue, Chalan Pago-Ordot

Hybrid Commission [MCoG DLM 2018-02]

Mayor Allan Ungacta, Mangilao

Mayor Rudy Matanane, Yigo

Mayor June Blas, Barrigada

Mayor Melissa Savares, Dededo

PLANNING STAFF PRESENT:

Mr. Marvin Aguilar, Guam Chief Planner

Mr. Frank Taitano, Case Planner

Mr. Penmer Gulac, Case Planner

Ms. Celine Cruz, Case Planner

Ms. Cristina Gutierrez, Recording Secretary

GLUC/HYBRID LAND USE COMMISSION GUAM SEASHORE PROTECTION COMMISSION Attendance Sheet

Department of Land Management Conference Room 590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

Date of Meeting:	Thursday, December 14, 2017	X GLUC X Regular	X HLUC X Regular
Time of Meeting: Hybrid:	GLUC: 1 409M GSPC: HLUC 3 30/19 Leconvened	Special Quorum No-Quorum	Special Quorum No-Quorum
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Chairman John Z. A	rroyo		
Vice Chairman Victo	r F. Cruz	(24)	
Commissioner Conc	hita D. Bathan	latati	
Commissioner Tae S	S. Oh		
Commissioner Hardy T.I. Vy		Encured;	
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GLUC Form 19 - GLUC Commission Attendance Sheet

GLUC/HYBRID LAND USE COMMISSION GUAM SEASHORE PROTECTION COMMISSION Attendance Sheet

Department of Land Management Conference Room 590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

Date of Meeting:	Thursday, December 14, 2017	X GLUC	X HLUC
		X Regular	X Regular
Time of Meeting:	GLUC: GSPC:	Special	Special
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GLUC Form 19 - GLUC Commission Attendance Sheet

GUAM LAND USE COMMISSION GUAM SEASHORE PROTECTION COMMISSION

Speaker's Sign-In Record

Location: Department of Land Management Conference Room 590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

X	GLUC	X	Regular	Date: Thu	ırsday, December 14, 2017
	HLUC		Special	Time:	1:40 pm
	Quorum		No Quorum	Adjournment:	7: Xpm

(THIS RECORD WILL BE USED IN THE TRANSCRIPTION OF THE GLUC/GSPC MINUTES. PLEASE PROVIDE YOUR FULL NAME AND WHO YOU REPRESENT, I.E., ITEM ON AGENDA.)

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GUAM LAND USE COMMISSION GUAM SEASHORE PROTECTION COMMISSION

Public Attendance Record

Location: Department of Land Management Conference Room 590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

HLUC Quorum	Special Time: 1:40 No Quorum Adjournment:	1: XSpm
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MIKIE MARCADI		7275300
TOR GUDMUNIET		47-0808
Nicole Benovemble Michele Casimin		9296124
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GUAM LAND USE COMMISSION



Chairman John Z. Arroyo Vice Chairman Victor F. Cruz Commissioner Conchita D. Bathan

Commissioner Tae S. Oh Commissioner Hardy T.I. Vy

Michael J.B. Borja, Executive Secretary Nicolas E. Toft, Legal Counsel (OAG)

AGENDA

Regular Meeting Thursday, December 14, 2017 at 1:30 p.m.

Department of Land Management Conference Room 590 S. Marine Corps Drive, 3rd Floor, ITC Building, Tamuning [As advertised in the Guam Daily Post on December 7th and December 12th, 2017]

- I. Notation of Attendance
- [] Quorum
- [] No Quorum

- II. Approval of Minutes
 - GLUC Regular Meeting of Tuesday, November 28, 2017
- III. Old or Unfinished Business
- IV. New Business

Zone Change

A. <u>Application No. 2017-04</u>, Applicant Kevin J. Yang represented by Daniel D. Swavely; Zone Change request from "A" (Rural) to "C" (Commercial) zone, on Lot 7, Tract 10417, in the Municipality of Yigo.

Case Planner: Celine Cruz

V. Administrative & Miscellaneous Matters

Request for Extension

- B. <u>Application No. 2015-38</u>, Applicant Richland Development LLC represented by Jae Ji; request for extension for a previously approved Tentative Subdivision, on Lot R4, Tract 93021, in an "R-1" (Single Family Dwelling) zone, in the Municipality of Yigo. Case Planner: Frank Taitano
- VI. Adjournment

HYBRID LAND USE COMMISSION



Chairman John Z. Arroyo Vice Chairman Victor F. Cruz Commissioner Conchita D. Bathan

Commissioner Tae S. Oh Commissioner Hardy T.I. Vy

Michael J.B. Borja, Executive Secretary Nicolas E. Toft, Legal Counsel (OAG)

AGENDA

Regular Meeting Thursday, December 14, 2017 at 1:30 p.m.

Department of Land Management Conference Room 590 S. Marine Corps Drive, 3rd Floor, ITC Building, Tamuning [As advertised in the Guam Daily Post on November 21st and November 24th, 2017]

1.	Notation	of Attendance

[] Quorum

[] No Quorum

- II. Approval of Minutes
 - GLUC Regular Meeting of Tuesday, November 28, 2017
- III. Old or Unfinished Business

Zone Variance

A. <u>Application No. 2017-25</u> Applicant, LZ Company represented by Mark Zhao; Height and Use Variance request, on Lot 5147-3-3NEW-6, in an "R-2" (Mulit-Family Dwelling) zone, in the Municipality of Tamuning. [Continuation – GLUC hearing of 11/28/2017] [MCoG_DLM 2018-01]

Case Planner: Frank Taitano

IV. New Business

Conditional Use

- B. <u>Application No. 2017-39</u> Applicant LG CNS America, LLC represented by TG Engineers, PC; Conditional Use request for a renewable energy facility, on Lot 1, Tract 1541, in an "A" (Rural) zone, in the Municipality of Mangilao. [MCoG_DLM No. 2018-02] Case Planner: Celine Cruz/Frank Taitano
- V. Administrative & Miscellaneous Matters
- VI. Adjournment

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning Thursday, December 14, 2017 • 1:40 p.m. to 7:25 p.m.

I. Attendance

Chairman Arroyo called to order the regular meeting of the Guam Land Use Commission for Thursday, December 14, 2017 at 1:40 p.m., noting a quorum.

Present were: Chairman John Arroyo, Vice Chairman Victor Cruz, Commissioner Conchita Bathan, Commissioner Tae Oh, Executive Secretary Michael Borja, Legal Counsel Nick Toft, Chief Planner Marvin Aguilar, Planning Staff Frank Taitano, Celine Cruz and Recording Secretary Cristina Gutierrez.

[Excused: Commissioner Hardy Vy]

Chairman Arroyo announced that this was the regular meeting of the Guam Land Use Commission, and after the adjournment of the regular GLUC meeting the Hybrid Commission will be called to order where there are two applications to be reviewed.

There were no changes noted to the order of today's agenda.

II. Approval of Minutes

<u>Chairman Arroyo</u> first item is the November 28th, 2017 Minutes which was disseminated by Cristina. Commissioners have had the opportunity to review the Minutes and asked for a motion.

<u>Vice Chairman Cruz</u> made a motion to approve the GLUC Minutes of Tuesday, November 28, 2017.

Commissioner Bathan seconds the motion.

<u>Chairman Arroyo</u> motion to approve made by Vice Chairman Cruz, seconded by Commissioner Bathan. There was no discussion noted, Chairman Arroyo puts the motion to a vote.

All in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Bathan and Commissioner Oh], all opposed say "nay."

[Motion passed; 4 ayes, 0 nay]

III. Old or Unfinished Business [None]

IV. New Business

Zone Change

A. <u>Application No. 2017-04</u>, the Applicant Kevin J. Yang represented by Daniel D. Swavely; Zone Change request from "A" (Rural) to "C" (Commercial) zone, on Lot 7, Tract 10417, in the Municipality of Yigo. Case Planner: Celine Cruz

<u>Chairman Arroyo</u> for the record, the Commission has received a copy of the Agricultural Impact Statement regarding this application. It was noted that DoAG had no opposition to this application. [For full content/contest, see attached **Exhibit 1**]

<u>Celine Cruz (Case Planner)</u> reads the staff report to include purpose, facts, public hearing results, staff analysis/discussion, and recommendation. [For full content/context, please see attached report.]

[Attachment A - Staff Report dated December 5, 2017]

Chairman Arroyo questions for staff.

Vice Chairman Cruz how may public hearings by the Municipal Planning Council are required.

Nick Toft (Legal Counsel) the two meetings are required, but it is being treated the same as the ARC reporting agencies where it is their duties to submit position statements to Land Management; it is not the responsibility of Land Management to ensure that this happens. If there are four or five reports that have been received from the different government agencies, but missing a position statement from BSP (for example), that doesn't void the decision made by the Board. If the MPC does not submit to Land Management it is cause for concern and it is something that the Commission can take into consideration when making its decision. It is not something that stops the process.

<u>Chairman Arroyo</u> for the record, the Commission has received a supplemental application from Dan Swavely that is basically responses to the questions and/or comments from the Perez Acres Homeowners Association. [See **Exhibit 2**]

No additional comments and/or question noted, Chairman Arroyo opened the floor to the consultant and applicant. Please state your name for the record.

<u>Dan Swavely</u> (representing the YSengSong Inc. who is the developer, with Mr. Kevin Yang, the developer)

Mr. Swavely thanked the Case Planner for the favorable staff report and also recognizes the Department of Agricultural who submitted the AIS before today's meeting.

Mr. Swavely presents the project to include:

- Using Google map, Mr. Swavely pointed out the location of the project site in Chalan La Juna. At the corner is the Yigo McDonald's which is under construction, Yigo Town Center next to that and Mobil Gas Station. And in red is the project site (located across the street from the Mobil Gas Station).
- > Parcel is approximately three (3) acres, just off of Marine Corps Drive on Chalan La Juna.
- Property was rezoned two (2) years ago. Three acres as an "R-2" zone has a permitted density of near the range of 100 units.
- Chalan La Juna goes all the way through to Route 15, and is the source of concern about the Yigo Family Plaza development.
- The development will be a neighborhood mall consisting of 25,000 square feet at full build out; sufficient parking; no requests will be made for parking, setback, density, height setbacks. There will be two (2), 10,000 square foot buildings and one (1), 5,000 square foot building, and the construction of the plaza will be done in phases.
- Employee parking will be provided at the back, there is a ponding basin, generator, trash area and also provided for an inter-connection point with the McDonald's development and the Yigo Town Center. There is an area allowed in the project's parking lot where cross traffic can occur between the businesses.
- Before the application was submitted Mr. Swavely met with the President of the Perez Acres Homeowners Association (PAHA) and the Yigo Mayor who were both supportive of the project. As a result of these meetings, family-oriented businesses will be incorporated into this family center.
- No objections from the five ARC agencies who responded to the zone change and there is a letter of support from the Yigo Mayor. There are continuing concerns that the developer wants to be part of the solution which is embodied in the supplemental application.

Kevin Yang is a business owner on Guam whose family owns Copy Xpress. Mr. Yang came to Guam as a teenager and has lived on Guam for about two-thirds of his life. In the past few years, there has been an influx of residential construction in Yigo; however, in terms of commercial it has been pretty much the same as it was 20-years ago when he lived in Yigo. Mr. Yang wishes to develop good quality commercial facility that will include a coffee shop, family-oriented restaurant, laundromat, and other basic necessities. He has also met with Sonny Ada who is open to inter-connecting the two properties; Mr. Yang will need to come up with details to find the connection point. A meeting will also be scheduled with McDonald's to discuss the interconnection. Additionally, they have met with PAHA and is committed to working with them on their concerns.

Dan Swavely explained the process that he and the developer has gone through to date:

In his letter dated December 2016, Mr. Swavely noted that in the 2012 Government of Guam statistics on the number of businesses in Yigo there were only a total of about 75 businesses.

- On December 4, 2017, from Route 1 Yigo to Route 3, there were approximately a total of 150 businesses to date.
- A meeting was held with the Perez Acres residents in a private meeting. There were 15 to 20 residents in attendance and received good comments from the meeting. A week later, the public hearing was heard at the Yigo Senior Center and a few concerns were noted. A supplemental application was put together addressing the concerns heard at the private meeting and public hearing.
- A letter was sent to the Director of Public Works to initiate a study protocol for traffic signal at the intersection of Perez Acres and Chalan La Juna; and a study protocol to extend the interval for the left-turn signal from Chalan La Juna onto Marine Corps Drive, and an updated report on the Chalan La Juna improvements.
- Letters were sent to Mr. Sonny Ada and McDonald's regarding inter-connecting of properties.
- Additional requests from Perez Acres was to provide attractive landscaping, exterior lighting around the facility, 24-7 security, and a second egress/ingress on the eastern end of the property; sidewalk along the full frontage of Chalan La Juna.
- Received five responses from ARC members with no objections.

<u>Dan Swavely</u> in closing, Mr. Swavely stated that this is an evolutionary development; it is time and they are committed and ready to move forward.

Chairman Arroyo questions for staff.

<u>Commissioner Oh</u> are you aware of any plans that DPW may have for the improvement of Chalan La Juna.

<u>Dan Swavely</u> in the approved highway master plan, it did not note any updates for Chalan La Juna from DPW. As of today, he was not aware of any improvements, but will have that information soon.

Chairman Arroyo is DPW willing to do a study for a traffic light.

<u>Dan Swavely</u> it can be arranged with a letter from DPW Director to Parsons/Brinkerhoff (management/consultant group). There is a comfort window to keep working hard and staying diligent on this to make it work.

<u>Chairman Arroyo</u> the entrance into the property off Chalan La Juna. Will there be a left-turning lane so traffic can enter from Chalan La Juna without impeding traffic.

Dan Swavely there will be a left-turn lane.

<u>Chairman Arroyo</u> what is the contingency plan if both McDonald's and Mr. Ada do not agree to grant access from their properties.

<u>Dan Swavely</u> it is a sharing concept. The plan would revert to a single point of egress/ingress from Marine Corps Drive.

[Lengthy discussion ensues on left-turn lane; egress/ingress into the subject property; entry/exit for McDonald's]

Vice Chairman Cruz Mr. Yang, how long have you owned the property.

Kevin Yang for about two-years.

Vice Chairman Cruz the plan is to construct in phases. There are no plans of selling the property.

<u>Kevin Yang</u> there are no plans to sell the property; however, will pre-lease to tenants. Mr. Yang added that he is not in the business of flipping the property.

<u>Commissioner Bathan</u> the activities described for this project fits limited commercial zoning. The property is located to nearby residential areas, and limited commercial zoning will control what type of activities can be conducted.

<u>Dan Swavely</u> comments that he was not familiar with limited commercial and asked for additional information.

<u>Marvin Aguilar</u> the applicant is afforded the opportunity to apply certain restricted commercial activities; restrictions to "vice" related commercial activities for example. The applicant will have to list the type of activities that he would like to see in this facility and will be restrict from any other type of activities once it is approved by the Commission.

Dan Swavely the application notes that there will be restaurants, coffee shop and no bars.

<u>Commissioner Bathan</u> once the property is rezoned to commercial zone, those type of activities can be done in the future. It may not be the applicant, but the property can be sold to another buyer.

Kevin Yang the project is named Yigo Family Plaza and the type of activities he had in mind were family-oriented activities. In addition, Mr. Yang added that he had no plans for bars and/or other type of vice activities in this facility.

<u>Commissioner Oh</u> the concern is that the property maybe sold in the future, and new owners can do that type of activities.

Kevin Yang there are no plans to flip this property.

<u>Dan Swavely</u> if the Commission's feeling to have a more iron-clad restriction on such activities as bars, games of chance, etc. place that as conditions or approve for limited commercial zone.

[Discussion ensues on limited commercial zone.]

Kevin Yang explains that he would like to see a dry-cleaning facility, family restaurant/coffee shop, pharmacy, possibly a small clinic, ice cream shop. Types of activities that are family oriented.

Dan Swavely can a final list be negotiated with the Chief Planner.

<u>Chairman Arroyo</u> the Commission would set a restriction list within the approval of the limited commercial zone.

There were no further questions noted, Chairman Arroyo opened the floor for public comment. Please state your name for the record.

Public Comment

Robert Klitzkie resident of Perez Acres for over 40-years. Mr. Klitzkie was before the Commission for two reasons; first, to read his written testimony, and secondly, for the President of Perez Acres Homeowners Association.

Mr. Klitzkie reads his written testimony to the Commission. [For full content/text, please refer to **Exhibit 3**]

**Mr. Klitzkie commented that today's meeting is subject to the same notice requirements given to landowners, and may have not been properly noticed. **

<u>Chairman Arroyo</u> it was mentioned at the beginning of your comment that you were here to represent Perez Acres.

Robert Klitzkie responded that in a sense he was.

<u>Chairman Arroyo</u> the concerns raised in your testimony were brought up to the Association and discussed?

Robert Klitzkie no; I cannot say that I directly represent anyone but myself, and the President of the Perez Acres Homeowners Association told me to come and present this and that it would be the position of the Board of Perez Acres.

<u>Chairman Arroyo</u> in the presentation of the developer it was indicated that they had a sit-down meeting with the Homeowners' Association, and asked Mr. Klitzkie if he was aware of this meeting.

Robert Klitzkie responds that he was not aware of that particular meeting.

<u>Chairman Arroyo</u> would you be willing to have a meeting with the developer and his consultant to iron out some of the issues that you have, and see if a workable solution can be achieved.

<u>Robert Klitzkie</u> replied that he was willing to sit down with anyone if it will help the Chalan La Juna neighborhood.

Chairman Arroyo thank you for your testimony. Are there any other public comment.

Robert Sanchez Lizama (resident of Yigo) after reading the application there were some concerns. Mr. Lizama stated that he is not against development and welcomed any opportunity for development in Yigo; however, for this application he was concerned about the egress/ingress of Chalan La Juna. The left-turn from La Juna into the development needs to be addressed. Mr. Lizama commented that working with DPW for a traffic signal light at Perez Acres was a good idea. During his tenure as Mayor of Yigo, a three-way stop was placed to accommodate the Perez Acres Association. I do see the development growing in the community of Yigo and there are concerns about this application. I support the application because it provides for competitive business market and job opportunities. I would like to shed light on Commissioner Bathan's concerns on limited conditions or activities; and some caution and conditions need to be placed on this application.

<u>Vice Chairman Cruz</u> asked Mr. Lizama if he supported Commissioner Bathan's concept of a limited commercial versus a commercial zone.

Robert Lizama responded "of course."

<u>Commissioner Oh</u> as a former Mayor of Yigo, are you aware of the 50-foot utility easement and public right-of-way. Are there any plans for building a road.

<u>Robert Lizama</u> back in 1998 the road was opened up to allow the access of buses because the only access that school buses had to the schools was through Gayinero. Research was conducted and was determined that it was a right-of-way when the area was subdivided, and with that the road was paved to allow the traffic flow to the Yigo schools.

[Discussion ensues on the right-of-way, 50-foot easement, and future plans for development of the easement]

<u>Chairman Arroyo</u> seeing no additional public comments, Chairman Arroyo closed the public comment period. Asked Mr. Swavely to respond to the public comments made.

<u>Dan Swavely</u> "fraught with danger, recipe for disaster and great peril" are bit over exaggerated for a 25,000-square foot mall. Mr. Swavely commented that he was a bit surprised that Mr. Klitzkie was so keen on reciting the detail of the law for the Commission to follow, but who does he present; is it the HOA or maybe it isn't. Mr. Swavely stated that he was at the meeting along with twenty other residents of Perez Acres, as well at the public hearing at the Yigo Senior Center and

nobody from Perez Acres HOA was against this project. The idea of public necessity, public welfare and convenience is for the Commission to decide and not for the public to decide. If the justifications stated meet the requirements of the GLUC that is all it takes.

<u>Chairman Arroyo</u> we need clarification on the issue of ownership of the property and to establish who is YSengSong Inc.

Dan Swavely it is clearly stated in the application along with the proper documents.

Kevin Yang the property was initially acquired under my name, and when the application was prepared it was transferred to YSengSong Inc. which is 100-percent owned by me and my wife.

<u>Chairman Arroyo</u> I saw the documentation in the application; it indicates that you are a Principle of YSengSong in what capacity.

Kevin Yang Vice President and Mrs. Yang is the President.

<u>Chairman Arroyo</u> you are authorized to act on behalf of the corporation. [Mr. Swavely responds, "yes, that is correct."] The question to Legal Counsel is the name of the applicant is Mr. Yang as opposed to the corporation. Is this an issue.

Nick Toft (Legal Counsel) I don't believe so. Based on Mr. Klitzkie's representation and if they were to pursue the route of judicial review of the decision and it goes before the Court and the Court looks at this and sees that Mr. Yang is the owner of the corporation, it is one in the same. That would not be a point on which a Court would overturn a decision of this Council. The ones where there are potential pit-falls are things like the notice requirements where it was pointed out that if there was failure to meet notice requirements that the actual meeting could be considered null and void.

<u>Chairman Arroyo</u> on the ownership, is it a closely held corporation by Mr. and Mrs. Yang and asked if there were any other shareholders of the corporation.

Kevin Yang 0.1 percent is owned by Mr. Yang's brother-in-law.

Chairman Arroyo between you and Mrs. Yang you own 99-percent.

Kevin Yang responds, "99.9 percent."

<u>Chairman Arroyo</u> on the next issue on notice requirements. Senator Klitzkie brought up that perhaps notification did not go out to all the individuals of homeowners who live within the 500-foot radios.

<u>Marvin Aquilar</u> the law is very specific that you have to notify landowners within 500-feet whether it touches their property or not. Mr. Aguilar stated that he is interpreting Mr. Klitzkie's interpretation

of that. Because of the fact that there is a one-two hundredth inches that everyone is an owner, and therefore everyone should be notified. The question is, was the public notification successful and that is what the law is attempting to accomplish. Certain steps are taken to ensure that the public is notified and in particular those within 500-feet whether they are completely within or just a smidgen of their property is within 500-feet. The question should be whether notification has been successful to the extent of every one-two hundredth (in this case) owner of Perez Acres.

<u>Chairman Arroyo</u> is the notice sent through certified mail. [Mr. Aguilar responds "yes.] And you stated that notices were sent.

<u>Marvin Aguilar</u> notices were sent to those who were identified within that 500-feet, within Perez Acres.

Chairman Arroyo does all of Perez Acres fall within that 500-foot radius.

Marvin Aguilar notification is sent to the homeowners' association (if they are active). The 67th letter went to the Perez Acres Homeowners Associate in care of Robert Blas, President.

[Discussion ensues]

<u>Frank Taitano</u> the letter was sent to the Association, and it is their responsibility to notify the individual owners that has undivided interest of the common area.

Nick Toft the section that is pointed out (Subsection C) where it talks about the decision made by the Commission being null and void is the failure of the applicant and not necessarily the failure of the Commission. The fact is that it is the Commission's job to do the mailing, but it was the applicant's job to do the sign. Mr. Toft's reading of this is that if the applicant fails on their part (error on the billboard sign) that would be a voiding action. If the Commission does not hit 100-percent of the required mailing addresses, Mr. Toft did not believe that it would be a null and void situation. This is a very technical legal argument and there is always the potential that this will get sent up for judicial review and this sits six to eight months waiting for a Court decision.

<u>Chairman Arroyo</u> the Chief Planner stated that a letter was sent to the HOA, and that satisfies notification to homeowners of Perez Acres. Is this a correct statement.

Nick Toft stated that he could not give a direct answer without doing research.

<u>Chairman Arroyo</u> what is your suggestion that the Commission should do at this juncture.

Nick Toft continue the application and allow the applicant and his consultant to meet with Mr. Klitzkie and any other concerned nearby residents to discuss and come up with an agreement on what needs to be done in order for them to withdraw any objections that they may have. If not, come back before the Commission with the information discussed at the meeting, and make a decision after that. If there is a possibility that this can be done without leaving open the possibility

of judicial review and essentially hamstringing the project for additional year or so while it sits in the Courts.

<u>Chairman Arroyo</u> concerned that if one homeowner who did not get the notice and did not agree that HOA being noticed is the same as he/she being noticed, and they come back to challenge the decision. This is the situation that he would like avoided, and asked that Mr. Toft give opinion on whether or not notifying the HOA satisfies the notification requirement.

<u>Nick Toft</u> responded that he will do research on Chairman Arroyo's request in the time between now and the next hearing of the application should it be continued. Mr. Toft reiterated he believed that the failure, if any, would be with the Commission and not with the applicant which would not void today's decision. However, the Commission should be aware of the potential litigation and avoid that if possible because of the time delay.

<u>Vice Chairman Cruz</u> it was mentioned that a meeting was held pool side at Perez Acres with about 20 homeowners. The residents that were present at the meeting were homeowners or tenants because a majority of the homes are being leased.

<u>Dan Swavely</u> mostly homeowners, but was not certain. Clarification on the 500-foot radius arc that captured a bit of Perez Acres and about 60 or 70 homes in that arc. Were individual letters sent to the 60 or 70 homes. [Mr. Aguilar responded "yes, we did."] Each of those in the arc according to the law got their letters. Additionally, there was a letter sent to the homeowners' association which would cover the rest. Additionally, when we made the offer to talk with them it was never restricted to the residents within the 500-foot radius. Nobody spoke like Senator Klitzkie at the meetings, not a person. The whole supplemental application is based on trying to work things out.

<u>Chairman Arroyo</u> Mr. Swavely has always been really good about working with the community then others in soliciting their comments and questions or questions and working them into your general development plan. For that, I thank you.

<u>Dan Swavely</u> one last comment. We have seen this before. Whenever there is somebody new on the block it is like they should not be here because of these reasons. Mr. Swavely shares with the Commission, the 1968 quad of the La Juna area. In 1968, USGS placed black spots every time a building went up; and in 1968, no black spots. In 1978, there was all these black spots and this is Perez Acres; and if Mr. Klitzkie was at this GLUC meeting for the Perez Acres development, he would have said, "you can't go there you are going to mess up Chalan La Juna." Community development is what we are looking for.

<u>Commissioner Oh</u> it was mentioned earlier regarding the necessity for a second public hearing if the Commission thought that it is a necessity. Does the responsibility lie with the Commission if it is deemed necessary.

<u>Nick Toft</u> the duty to this would be with the MPC. This Commission, could if it wanted to, require the applicant to hold another public meeting for additional comment if it believes that it is necessary in order to get the information for the Commission to make a decision. It is the option of the Commission, but not a requirement.

<u>Commissioner Oh</u> the issue is on notification and from what has been said it seems that ample notification was given, and did not feel that there was a need for have another meeting.

Nick Toft it is his concern as Legal Counsel to try to potentially avoid any litigation pitfall. If there can be a meeting of the minds such that everyone is comfortable with the decision being made that is great. If not, and the Commission makes a decision on whether to approve or disapprove, and if there is an approval and there is an appeal, it will drag out the process. Mr. Toft further added that he believes that his analysis that legally the Commission is in the right, but there are potentially grounds that would support a petition for judicial review. Although he understands Mr. Klitzkie's argument, but he does not agree with it; but can see what Mr. Klitzkie may argue in a court hearing.

<u>Chairman Arroyo</u> if the Commission is challenged, Chairman Arroyo would rather that it be on the merits of the application as opposed to the notification requirements or issues with that. Chairman Arroyo would like to give Legal Counsel some time to address the issue of the notification to make sure that it was done correctly, and that this is hearing is valid and any decisions made today are valid.

Are there any other questions.

<u>Commissioner Oh</u> asked Mr. Swavely if he was aware of any future plans for the 50-foot access/right-of-way located at the side.

<u>Dan Swavely</u> this is the access for the recent rezoned R2 property, and was not aware of any future improvements.

[Discussion ensues on alternate access, ingress/egress to the subject property]

<u>Chairman Arroyo</u> there being no additional questions, it was the order of Chairman Arroyo to continue the hearing of this application pending an opinion from Legal Counsel on the notification requirements.

[It was noted that Application No. 2017-04 will be scheduled for the later meeting scheduled in January.]

Next item on the agenda -

V. Administrative and Miscellaneous Matters

Request for an Extension

B. Application No. 2015-38, the Applicant, Richland Development, LLC represented by Jae Ji; a request for an extension of time for a previously approved Tentative Subdivision, on Lot R4, Tract 93021, in the Municipality of Yigo, in an "R-1" (Single Family Dwelling) zone. Case Planner: Frank Taitano

<u>Marvin Aguilar</u> reads the Commission Brief to include purpose, discussion, recommendation and conditions. [For full content/context, refer to attached report]

[Attachment B - Commission Brief dated December 4, 2017]

<u>Chairman Arroyo</u> no questions noted for staff, Chairman Arroyo opened the floor to the applicant.

<u>Jae Ji</u> (representing Richland Development) a building permit was applied for on October 4, 2017, and still processing. They are very close to getting the permit, but would like to formally request for an extension from the Commission so that they can obtain the permit.

<u>Chairman Arroyo</u> questions for the applicant [none noted]. The Commission recognizes that you have been working diligently with the agencies, and understands the length of time in obtaining these permits.

<u>Jae Ji</u> added that since the submittal of the request, they have received Guam EPA's approval, and the application is with Agricultural since the reports they requested have been submitted.

Chairman Arroyo if there are no questions, Chairman Arroyo was ready to entertain a motion.

<u>Commissioner Oh</u> Mr. Chairman, I move to approve the applicant, Richland Development LLC's represented by Jae Ji, and their request for extension of time for a previously approved Tentative Subdivision on Lot 4R, Tract 93021, in an "R1" zone, in the municipality of Yigo; with the condition that the applicant continues to adhere to the October 27, 2016 Commission approval.

Chairman Arroyo what is the expiry date for the extension.

Marvin Aguilar it will be one (1) year after the recordation of the Notice of Action.

Commissioner Bathan seconds the motion.

<u>Chairman Arroyo</u> moved by Commissioner Oh, seconded by Commissioner Bathan; any discussion on the motion. [No discussion noted]

All in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioner Oh, Commissioner Bathan], all opposed say "nay."

[Motion is approved; 4 ayes, 0 nay]

<u>Chairman Arroyo</u> is there any other business that the Commission needs to adjust on the regular agenda. [None noted] This Commission will recess and convene the Hybrid Land Use Commission.

The GLUC recessed at 3:45 p.m. and reconvened at 7:20 p.m.

<u>Chairman Arroyo</u> the regular Commission meeting is back in session. Are there any other items on the regular GLUC agenda that needs to be discussed. Seeing none, Chairman Arroyo requested for a motion to adjourn.

VI. Adjournment

Vice Chairman Cruz move to adjourn today's meeting.

Commissioner Bathan seconds the motion.

<u>Chairman Arroyo</u> meeting is adjourned.

The regular meeting of the Guam Land Use Commission for Thursday, December 14, 2017 was adjourned at 7:25 p.m.

Approved by:

John Z. Arroyo, Chairman Guam Land Use Commission

Date approved: 1. 25-2018

Transcribed by:

M. Cristina Gutierrez, Recording Secretary

Planning Division, DLM

HYBRID LAND USE COMMISSION REGULAR MEETING MINUTES Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning Thursday, December 14, 2018 • 3:50 p.m. to 7:15 p.m. (Recessed)

I. Notation of Attendance

Chairman Arroyo reconvened the Hybrid Land Use Commission (for MCoG DLM 2018-01] meeting for Thursday, December 14, 2017 at 3:50 p.m., noting a quorum.

Present were: Chairman Arroyo, Vice Chairman Victor, Commissioner Conchita Bathan, Commissioner Tae Oh, Executive Secretary Michael Borja, Legal Counsel Nick Toft, Chief Planner Marvin Aguilar, Planning Staff Frank Taitano and Celine Cruz, and Recording Secretary Cristina Gutierrez.

Hybrid Commission: Mayor Louise Rivera, Mayor June Blas, Mayor Melissa Savares and Mayor Jessy Gogue.

II. Approval of Minutes

<u>Chairman Arroyo</u> first item on the agenda is the approval of the Hybrid Commission meeting minutes held on November 28, 2017. Mayors have had the chance to review the minutes, and if there aren't any questions, requested for a motion.

Vice Chairman Cruz Mr. Chair, I would like to make a motion to approve the Minutes.

Mayor Rivera seconds the motion.

<u>Chairman Arroyo</u> motion is made by Vice Chairman Cruz, seconded by Mayor Rivera (Tamuning). There being no discussion, Chairman Arroyo puts the motion to a vote.

All in favor say "aye" [Vice Chairman Cruz, Commissioners Bathan and Oh, Mayors Rivera, Blas, Savares and Gogue], all opposed say "nay."

[Motion passed; 7 ayes, 0 nay]

III. Old or Unfinished Business

Zone Variance

A. <u>Application No. 2017-25</u>, the Applicant, LZ Company represented by Mark Zhao; a request for Height and Use Variance for a proposed six-story commercial/hotel structure, on Lot 5147-3-3NEW-6, in an "R-2" (Multi Family Dwelling) zone, in the Municipality of Tamuning. [MCoG DLM 2018-01, Continuation from GLUC Hearing of 11/282/2017].
Case Planner: Frank Taitano

<u>Marvin Aguilar</u> reads supplemental report to include purpose, facts and discussion. [For full content/context, please see attached report.] In addition, Chief Planner Aguilar read the Memorandum from the Director of Public Works. [Please refer to Exhibit 1]

[Attachment A - Supplemental Staff Report dated December 7, 2017]

Marvin Aguilar deferred to Legal Counsel to expound on the need for two municipal public hearing requirements.

<u>Nick Toft (Legal Counsel)</u> in researching, the process is similar to how the ARC reports from individual agencies are dealt with where it says it shall be submitted, and the reports that are received will be analyzed and taken into consideration. But, failure by a particular ARC agency to submit a report or failure by a Mayor's Office to submit an official MPC resolution will not be fatal to the process. The statements and MPC resolutions are extraordinary helpful in assisting the Commission to make a decision.

[Mr. Aguilar continues with his supplemental report.]

<u>Chairman Arroyo</u> no questions for staff was noted. Question to Chief Planner. Chairman Arroyo asked for clarification that the applicant is willing to hold off on construction until road work begins.

Marvin Aguilar yes, an alignment of both activities.

<u>Chairman Arroyo</u> according to the Director of DPW that once the road improvements begin in will take about a year and a half completed, and that aligns with the applicant's construction phase.

Marvin Aguilar he was not quite sure, and deferred the question to the applicants.

<u>Chairman Arroyo</u> any other questions of staff. [None] Mayor Rivera, would you care to discuss the MPC's position/resolution regarding this application.

<u>Mayor Louise Rivera</u> reads Tamuning MPC Resolution 2017-02 [for full content/context, refer to **Exhibit**]. It was noted that the Tamuning MPC reaffirmed its opposition to any and all requests made with new development on Ypao Road.

<u>Chairman Arroyo</u> the developer has indicated that they are willing to hold off on the start of the construction so that it coincides with the start of the construction on Ypao Road; and hopefully, those two construction periods will run parallel and completed at the same time. Is it the position of the MPC not to support the request for variance if the construction of the project runs parallel to construction of the road, or is it the position that MPC holds off on the approval of this project until the road is completed.

<u>Mayor Rivera</u> it was discussed at the MPC meeting, and it is the desire of the MPC to wait until the road is completely improved due to promises made by other developers in the past.

Vice Chairman Cruz is this for any projects in the area to include construction of houses.

<u>Mayor Rivera</u> responds "yes" to any projects that has to go through the public hearing process. With houses it would be different because as it does not have to go through public hearings. With this particular project this is how the MPC decided. Mayor Rivera expressed that although she welcomes new development and is in favor of this project, she has to listen to her constituents that live in the area and will be affected by the project.

<u>Vice Chairman Cruz</u> if somebody wants to build a six-unit structure that meets the height requirement of 30-feet will this project be placed on hold.

<u>Mayor Rivera</u> according to the resolution, yes. This is the project that is being dealt at this time and this is the decision made by the MPC members.

[Discussion ensues]

<u>Chairman Arroyo</u> explains that he understood what Mayor Rivera was saying, and if it comes before the MPC that would be the opinion of the Council.

<u>Mayor Rivera</u> also brought up the fact that there have been many times that residents attend public hearings, and there could be up to 100 residents opposing a project, but all it takes is for six members of the Commission to approve a project and this has happened in the past. Mayor Rivera reiterated that she is pro-development because it will provide jobs and service our island and community. But at this time, Ypao Road needs to be repaired.

<u>Commissioner Oh</u> the developer has agreed to a no building permit condition until roads have been improved. Would Council agree to support this project if the developer has a no building permit condition placed on the project until the road is improved.

<u>Mayor Rivera</u> this was asked of the MPC; however, promises have been made in the past that the road would be improved when other projects were developed and still the road has not been repaired. An example was the Talo Verde project who had a condition that an occupancy permit would not be issued until the road was repaired, and the developer improved only the portion of the road that fronted their development.

<u>Chairman Arroyo</u> Mayor Gogue, the response from DPW was that satisfactory to your request.

Mayor Jessy Goque the request from DPW in writing on the development of Ypao Road is due to multiple promises that Ypao Road would be developed and repaired that it would occur within certain timeframes. The Government of Guam's 2030 Master Transportation Plan highlights that Ypao Road is not slated for any improvements until sometime between the years 2024 and 2027. Mayor Gogue feels that the developer has done their due diligence. The developer is proposing about a 40,000-square foot facility going up six stories; however, whether they go up six stories or stay at three stories high and just expand the footprint of the structure, they have not increased their floor space capacity that they are allowed to build, and build a three-story the traffic will remain the same. Mayors represent the people and listen to what the community wants. In closing, Mayor Gogue stated that the letter from DPW satisfied his request.

Chairman Arroyo thank you for your comment. Any other questions.

<u>Commissioner Oh</u> Mayor Rivera, it was mentioned that certain restrictions have been placed in the past; the example used was for Talo Verde, and they would not be issued an occupancy permit until road improvements were made. Please clarify.

<u>Mayor Rivera</u> this is what she was told; the condition was placed on the project was that the issuance of an occupancy permit would depend on the improvement of Ypao Road.

[Discussion ensues on other development on Ypao Road.]

<u>Commissioner Oh</u> if the Commission places a restriction on the development that states a building permit will not be issued until road improvements have been made on Ypao Road. Is it possible that history repeats itself.

<u>Mayor Rivera</u> different avenues have been considered on the decision of the MPC being reversed.

[Lengthy discussion ensues]

<u>Commissioner Oh</u> if the Commission issues an NOA with conditions and restrictions pertaining particularly to the improvement of Ypao Road, would the developer be cleared for a building permit circumventing the Notice of Action restrictions/conditions that was placed on the project.

<u>Mayor Rivera</u> asked which agency enforces conditions that the Commission places on development. Conditions can be placed on a project by staff and there is no follow up.

Marvin Aguilar Department of Public Works is the enforcement agency.

<u>Mayor Gogue</u> with projects that have cost of three-million dollars or more requires review by the Hybrid Commission which includes Mayors to help review projects that impact the community and potential impact to the surrounding communities.

<u>Commissioner Oh</u> the GLUC is not the enforcement agency. The Commission sets the parameters and policies on development.

[Lengthy discussion ensues on enforcement of conditions]

Michael Borja (Executive Secretary) directed his comment to Mayor Rivera of Tamuning that on Resolution 2017-02 that was provided to this Commission that it was a result of what Public Law 33-219 enacted in March of 2016 (sic) states, that as the result of two public hearings conducted by the Municipal Planning Council conducted in accordance with the Open Government Law. For the record, Mr. Borja suggested that Mayor Rivera provides the Commission with a copy of the documents (MPC Minutes) required to show that it was done in accordance to the Open Government Law.

<u>Chairman Arroyo</u> one of the items that the applicants were asked to provide the Commission with was further justification for the variance. [Asked the applicants to come forward]

[Before the Commission were Dr. Peter Lombard and Mr. Mark Zhao]

<u>Mark Zhao</u> we are here to get the Commission's approval and listen to the concerns. There is no intention of incurring additional burden than there already is. We have agreed to start the project after the road construction has begun. Mr. Zhao (along with Dr. Lombard) personally guaranteed that they will not start the project until the road construction begins. They are committed to this. We are at the mercy of the Commission for their approval at this point.

Peter Lombard some of the questions why the variance is requested for, particularly for this location, this lot. Dr. Lombard explains that this is an ideal location for this combined medical/hotel facility. The location is very close to other medical facilities, GMP down the road. From that perspective, he did not believe that any other location would give them that advantage of being in that hub activity. It is a limited lot in terms of the size, and this can be done in three stories. But for aesthetics and environmental appeal, egress/ingress in out of the facility, the idea of using a smaller footprint of going up made sense. Dr. Lombard also commented that he felt that they were being made a scapegoat in terms of the Ypao project, and did not want to think that this

would be held against their project. They are excited to move forward and under some constraints with the land that was purchased, and would hate to see this drag on.

<u>Chairman Arroyo</u> part of the issue for the non-support from the Tamuning MPC was the fact that certain commitments were made to improve Ypao Road that did not happen. As a result of that, the Planning Council is saying no to this project until after the road is improved to ensure that commitments that you may or may have made with respect to improving the road above and beyond what DPW has planned gets put in place and the MPC is satisfied. Have any commitments with the MPC with respect to improving the road above and beyond what DPW is planning.

<u>Mark Zhao</u> commented that he attended the meeting last week, and personally appealed to them that they will not move forward. The MPC stated that it was not the developer that they didn't trust since DPW has said on many occasions that the road improvements would begin.

<u>Chairman Arroyo</u> reiterated that there has been a promise made to the MPC to start construction when the road construction begins and that this project will run parallel with that, and even if the project is not completed it will not be occupied until the road project is completed. Chairman Arroyo understands where the MPC is coming from; other promises have been made with other projects to make road improvement that did not happen. The question is is there an agreement between the developer and the MPC with respect to additional road improvement that you are committed to doing above and beyond what DPW is planning.

<u>Mark Zhao</u> no commitment has been made with the MPC, but willing to do anything that they can to help the completion of the road construction.

<u>Chairman Arroyo</u> suggested that the applicants meet with the Mayor and the MPC and discuss additional road improvements to Ypao Road that they feel obligated to do. And by doing this may appease the members of the Planning Council. This may help the application somewhat.

<u>Mayor Rivera</u> was open to holding another public hearing to allow the members of her community to provide additional comments that they may have on this project.

Mayor Gogue Mayor Rivera may want to afford the opportunity for her community to allow for comments on this project. Mayor Gogue highlighted what Mr. Borja had mentioned on the two public hearings in the community meeting the open government laws which includes advertising on the part of the Mayor's office or accommodation between the Mayor's Office and Land Management in ensuring that the open government law has been met. If Mayor Rivera would like to schedule an additional public hearing to discuss this matter with her community and the developers present at this public meeting, I would like to entertain a motion to table this until that meeting has been held and minutes have been provided.

Chairman Arroyo no motion is necessary if the decision is to continue this hearing.

<u>Vice Chairman Cruz</u> what are some of the excuses that you have heard on the delay on the improvement of Route 14.

Mayor Rivera acquiring of property.

<u>Vice Chairman Cruz</u> Mr. Borja, has the property already been acquired to proceed with the construction.

<u>Michael Borja</u> as previously mentioned in the last meeting, all the property necessary to be acquired has been completed with the exception of one lot which is a friendly condemnation.

<u>Vice Chairman Cruz</u> when will that condemnation be done.

Michael Borja it does not involve Land Management, it involves DPW's Highway Division.

Mayor Melissa Savares (Dededo) it states in DPW's letter that this acquisition is 80-pecent completed.

<u>Chairman Arroyo</u> there is no problem with the road construction. The developer has agreed not to move forward until the road construction begins. That whole issue of acquiring additional property is really not an issue here. The issue here is running the project construction parallel with the road construction, and that seems to be the only issue. Other than that, everyone is in agreement to this project going forward. It is just when does it start and when does it end.

<u>Commissioner Oh</u> comments that for a developer to commit to a no occupancy or no building permit type of restriction is a huge commitment. As a developer (himself) he may not agree to this restriction, and secondly, the developer does not need the approval of the Commission currently; the lot is zoned "R2" and the Commission is considering the betterment of the community, the traffic issue. The developers can come back tomorrow and decide to build a three-story structure and they will be done. They will not need the approval of the Commission.

<u>Chairman Arroyo</u> Mayor Rivera has represented the residents of Tamuning-Tumon-Harmon very well. Unless the Mayor feels there is a need to meet with the developers to discuss, in particular, additional roadwork and if that will help, Chairman Arroyo supports the postponement on the vote for this application.

<u>Mark Zhao</u> explained that he has met with Mayor Rivera on how to improve the road conditions to a certain limit, and asked if the Commission can move forward with a decision. Mr. Zhao further added that he and Dr. Lombard are sincere and committed to delaying the start of their project until the road construction begins; however, certain members of the Tamuning MPC are still not in support of the project.

<u>Mayor Rivera</u> agreed that another meeting with the developers, MPC and Tamuning residents is needed. Mayor Rivera stated in reference to the open government law that the Tamuning MPC meets monthly on the 1st Thursday of the month, and published in the free village news in the Pacific Daily News.

<u>Mayor Gogue</u> can a legal opinion be obtained on whether or not the MPC meetings and how they are announced meet the open government law.

<u>Michael Borja</u> mentioned that he had attended the open government law training that was offered by the Office of the Attorney General last week. The open government law is specific and it was quoted specifically in that public law that it had to be in accordance with the open government law.

[Discussion ensues]

<u>Mayor Gogue</u> I sit as a Commissioner/Mayor. I allow these resolutions whether it has or has not been done by the GLUC, and resolutions submitted to Land Management or GLUC regarding

proposed projects. As a Mayor, I weigh heavily the desires of the committee and what is placed in the resolution that can in favor or in opposition to an application. The Tamuning MPC is recommending disapproval of the application.

<u>Chairman Arroyo</u> this is something that can be discussed outside of this hearing. Chairman Arroyo asked that the Commission focuses on the application before them today. He further added that if the Commission does use the resolution from the MPC that it has to be duly noted and in accordance with the open government law.

Unless any of the Commissioners/Mayors are ready to make a motion on the application, Chairman Arroyo ordered the continuation of the hearing for the application to allow the Mayor of Tamuning and project owners to further discuss, and see if there are any common elements that they can agree on that will hopefully move this project forward.

Asked if any of the Commissioners would like to make a motion at this time.

<u>Commissioner Oh</u> the position of the Tamuning MPC is clear. Is a second public hearing needed for a decision can be made.

<u>Chairman Arroyo</u> Legal Counsel has stated that a public hearing is a tool for the Commission. The issue with the resolution and accepting a resolution, whether or not they have a public hearing has no bearing on the decision the Commission makes. The resolution would have a bearing on a decision that the Commission makes provided that it was not made outside of the open government law. The second public hearing is up to the Mayor, and it is not something the Commission controls nor will it have any bearing on today's decision.

<u>Nick Toft</u> if a second municipal public hearing is held in conformance to the open government law and submits a resolution, it would have to consider that. Otherwise, it has no bearing.

<u>Vice Chairman Cruz</u> asked Mr. Zhao whether or not they would like the Commission to put the application to a vote or the option to further discuss with the Mayor and MPC.

<u>Mark Zhao</u> the Mayors present today are not really opposing. He reiterated that they are sincere and will not start the project until the beginning of the road improvements. Mr. Zhao and Dr. Lombard would like the Commission put the application to a vote.

<u>Chairman Arroyo</u> are the Commissioners ready to make a motion on this application.

Commissioner Oh stated that he is ready to make a motion.

<u>Commissioner Bathan</u> if the Commission takes a vote and disapproves the application today, the developers will have a one (1) year waiting period to re-apply for the variance.

<u>Peter Lombard</u> he did not want to jeopardize time and also did not want to give the impression that they are not willing to work with the MPC. He feels that the decision has been made by the MPC, and is still willing to work with them; but, did not feel they would change their decision for this project. In this respect, they are willing to meet with the MPC and residents. They are happy to meet with the Mayor and the MPC if the Commission feels this is best thing for them to do to get an approval.

<u>Chairman Arroyo</u> Commissioner Oh is ready to make a motion. The Commission is ready to take a vote on this application, and asked if the applicants were ready to proceed with a vote.

<u>Peter Lombard</u> he did not see any harm in meeting with the Mayor and the MPC, and asked for a continuation.

<u>Chairman Arroyo</u> ordered the continuation of this application until such time the developers and the MPC have had a chance to meet, and hopefully find some common ground.

With that, Chairman Arroyo adjourned this Hybrid Commission (MCoG DLM 2018-01).

[MCoG DLM 2018-01 was adjourned at 5:05 p.m.] [Commission recesses at 5:10 p.m. and reconvened at 5:20 p.m.]

Chairman Arroyo calls the meeting back to order and announced the next item on the agenda.

IV. New Business

Conditional Use

B. Application No. 2017-39 Applicant, LG CNS America, LLC represented by TG Engineers, PC; requests a Conditional Use permit for a renewable energy facility, on Lot 1, Tract 1541, in an "A" (Rural) zone, in the Municipality of Mangilao. [MCoG DLM 2018-02] Case Planners: Frank Taitano/Celine Cruz

Chairman Arroyo noted that this is a new hybrid commission and noted a quorum.

Present were: Chairman John Arroyo, Vice Chairman Victor Cruz, Commissioner Conchita Bathan and Commissioner Tae Oh; as well as members of the hybrid commission, Mayor Allan Ungacta, Mayor June Blas, Mayor Melissa Savares, Mayor Rudy Matanane, Executive Secretary Michael Borja, Legal Counsel Nick Toft, Chief Planner Marvin Aguilar, Planning Staff Frank Taitano, Celine Cruz and Recording Secretary Cristina Gutierrez.

<u>Chairman Arroyo</u> announced that he has a conflict of interest because he owns property in the area, and relinquished the Chair to Vice Chairman Cruz and will sit this hearing out.

Vice Chairman Cruz asked staff to proceed with the staff report.

<u>Celine Cruz</u> reads the staff report to include purpose, facts, public hearing results, staff analysis/discussion, recommendation and conditions. [For full contents refer to attached staff report.]

[Attachment B – Staff Report dated December 7, 2017]

Acting Chairman Cruz questions for staff.

<u>Mayor Rudy Matanane (Yiqo)</u> welcomes development that will improve the lives of the people, and felt that the health issues involved is a concern for him. Mayor Matanane asked if studies have been done on the health and safety of residents should this application be approved.

<u>Marvin Aguilar (Chief Planner)</u> depending on upon what phase of this development is going through we will be relying on the appropriate subject matter experts to guarantee that the materials and equipment to be used, if approved, is following appropriate U.S. standards.

<u>Mayor Allan Ungacta (Mangilao)</u> how far and extensive did the applicants go; and did the developers approach the Department of U.S. Fish and Wildlife for their opinion on this application.

<u>Acting Chairman Cruz</u> explained to the Hybrid Commissioners that there will be an opportunity for them to ask questions after the applicant's presentation.

No further comments and/or questions noted for staff, Acting Chairman Cruz welcomed the applicants to the meeting.

<u>Joaquin Flores</u> (Director of Energy projects for TG Engineers) with Mr. Tor Gudmundsen who is the Principle and owner of TG Engineers, representing LG CNS and KEPCO. Mr. Flores proceeded with the slide presentation that included:

- Introduction of developers;
- Project description;
- Overall project site plan;
- PV layout;
- Project site grading;
- Environmental survey;
- Archeological highlights; and,
- Benefits of a renewable energy facility.

[For full content/context of the presentation, please refer to Exhibit 1 - Presentation]

<u>Joaquin Flores</u> addressed the article in the Guam Post. The entire area of Tract 1541 was zoned as a Planned Development in 1991 for a golf resort. It was then planned for a housing resort with a significant density of almost 341 homes, and these projects were halted. This project is what they believe, and what LG CNS believes is the best choice and right choice for the lot. It is a passive site and will not interfere with farms in the area. Tract 1541 was designated for development since 1991. There are other alternative uses for the property. Mr. Flores notes that the soil for this property has been revealed to be excellent quarry material, and a quarry did not make sense for this site. It was his opinion that development of this tract maybe has been halted because of infrastructure or lack thereof.

The other issue noted in the Guam Daily Post article was the field of unseen long-term health hazards of daily exposure and magnetic fields. Everything around us has electromagnetic fields; microphones, laptops, anything with electricity and it maybe in very small scales. A report from an independent laboratory stated that the magnetic field and electrical strengths to be significantly less than whatever everyone believes them to be. The danger for solar panels and solar energy is blown out of proportion. Data speaks for itself with the technical science and the results from testing conducted by independent laboratories. Mr. Flores added that the scientific data provided in the supplement will address the concerns that Mayor Matanane had on health issues. There have been no recorded incidences, scientific and/or medical reports that solar panels have caused harm to the public.

- Waste water is a big part of this type of industry and that wastewater may get trapped in the limestone. Mr. Flores stated that there will be no wastewater as it will be contained in a 500-gallon septic tank that will be required to be pumped out. Another statement was that the batteries will use up to 650 gallons per hour, per megawatt and this is completely inaccurate. There is no water design in the battery room for the 32 megawatts facility; it is potable water with a three-quarter inch service line.
- Another item in the article is what will happen to the panels. Mr. Flores explained that LG and KEPCO understand that if and when the contract expires in 25-years or is extended for additional years that GPA may elect to purchase the facility at fair value, or LG has stated that they will remove the solid waste, batteries will be shipped off to Korea or recycling, the panels will have to be disposed of either on island or off island in an approved landfill. They are committed to removing the facility.

This concluded the presentation. In closing, Mr. Flores stated that he feels that he has provided responses to the public's concerns and was open for questions and answers.

Acting Chairman Cruz questions for Mr. Flores ---

<u>Commissioner Bathan</u> after 25 years it was stated that GPA has the option to purchase the facility and if not can be sold to a private company. Commissioner Bathan asked if the solar farm will have any impact on the future use of the facility; can be it be converted back for agricultural use.

<u>Joaquin Flores</u> it was made clear by staff that the conditional use is predicated on the continued operation of the solar farm. If the solar farm expires then the conditional use permit also expires.

<u>Mayor Ungacta</u> he would like to hear the concerns from the community, and asked that they be given the opportunity to provide comments.

<u>Acting Chairman Cruz</u> there will be an opportunity for public comments once questions from the Commissioners have been addressed by the applicant.

<u>Commissioner Oh</u> can you talk about the chemicals that are contained within the panels and the possible hazardous effects of the chemicals.

<u>Joaquin Flores</u> in Attachment 1 it explains the different test samples that were taken to test the overall full assembly and full manufacturing of the panels. The concern was for water-based materials or hygienic issues or impacts to safety and health. The certifications show that most of the 43 materials were compounds and materials that are water based that have been tested and with no signs of detection.

<u>Mayor Matanane</u> the solar panels will be there for 25-years. Is there a chance of contamination under the solar panels after 25 years.

Joaquin Flores responded "no" and did not think that there would be any type of contamination.

<u>Commissioner Oh</u> going back to the chemicals. The type of chemical materials and compounds were tested, but, the question that was asked was what were the chemicals that are present.

<u>Joaquin Flores</u> he did not have the technical knowledge to provide answers. The materials are mono or poly crystalline type materials primarily made out of silica which is an element that occurs in the earth, and is well known as sand.

[Discussion ensues]

<u>Acting Chairman Cruz</u> there being no further comments and/or questions, Acting Chairman Cruz opened the floor for public comments.

Public Comment

<u>Marcel Camacho</u> the answers to the questions that were posed at the townhall meeting at the Mayor's Office were not available to those that were present. Mr. Camacho stated that they should be afforded the opportunity to review the applicant's answers before they provide their "true" comments on the project. He further stated that he requested for all information for this project be provided to him and this supplement was not provided to him.

Marvin Aguilar the latest document received was the report provided by TG Engineers.

<u>Marcel Camacho</u> requested that he be given a copy of the report before continuing the hearing. He stated for the record that he was at Land Management, and that the Deputy Director of the Land Management ordered that all information be given to him and this report was not included.

Marvin Aguilar replies that he was not aware that documents were requested for.

[For the record – a copy of the supplement report was provided to Mr. Camacho by Executive Secretary/Director Michael Borja]

<u>Marcel Camacho</u> requested that the Commission recess in order for him to review the report before further proceeding with the hearing.

Acting Chairman Cruz I am giving you the opportunity to provide comments and/or ask your questions.

<u>Marcel Camacho</u> asked that the meeting be recessed until such he has had the opportunity to review the comments that was submitted by the applicant in response to the meeting that was held at the Mangilao Mayor's Office.

<u>Acting Chairman Cruz</u> the Commission will not recess. I am giving you the opportunity to provide your comments.

Marcel Camacho the Commission will not recess the meeting to allow members of the public to review the comments that were submitted by the applicant. For the record, I want to state that I asked the question on whether or not we could recess, the answer was no, and I will leave it at that. I do feel that it is important for the general public to have had a copy of this in advance of this meeting so it could have been reviewed and responded in writing prior to this hearing our position statement on whether or not this body should approve or disapprove this project. [SIC]

<u>Belta Perez</u> present today on behalf of her mother and family members who live off-island and were not able to attend. Her concern is the fact and the choice of the location for the solar farm. Ms. Perez described the subject lot as a pristine and "wonderful paradise." Her father found the

land to be extremely rich, and started commercial farming. The family decided that Sasayan should grow for more than just the family's personal use and the decision was made to sell the property for an affordable housing development. Later in the 1980s, 1990s, the property was again sold for the development of a golf resort. Over the years, this valley was always intended for housing, farming, and recreational activities. Ms. Perez believes that the tradition and conviction of the native people value the following "a unique people and its unique history are one in the land." The pristine Sasayan Valley's 900 acres is the last of Guam's natural wonders with a history to the land. In closing, Ms. Perez made an emotional appeal to the Commission to disapprove the application and save Sasayan.

Ted Nelson this is an emotional time for his "primo and auntie." Mr. Nelson has reviewed the plan and sees the effects of the project. Mr. Nelson has lived in this area all his life and still lives there. He is a real estate broker, taught at UOG for ten years, and currently uses his land for farming. He has seen the effects of the valley and the problems that have been affecting the valley since Shobu was supposed to develop the land; promises were made to the members of the family in terms of providing utilities, but the project did not move forward. Most of the area that will be developed has been destroyed and can no longer be used for farming. Mr. Nelson finds this application to be compatible with the environment; the land is not being destroyed and the spirit of the land is not being touched. Solar farms are being done world-wide and it is a means of getting away from fossil fuel. The applicants purchased the land, and any individual (based on American law) has the right to develop their property based on policy, regulations and law. In closing, Mr. Nelson stated that he is in support of the project. The applicants are not destroying the land and 9,000 to 10,000 residents will benefit from this solar farm.

<u>Acting Chairman Cruz</u> any other public comments regarding this application will be limited to no more than three minutes (due to the current time).

<u>Marcel Camacho</u> this is a 300-acre project and requires very careful deliberation. Neighbors, land owners, and community cannot express their concerns in three minutes and have a back and forth dialogue on this technical data. Mr. Camacho objected to Acting Chairman Cruz's limitation on public comments.

Sabina Perez it is important to get all information before any decision is made. In the presentation they talked about an opinion about the Fish and Wildlife service, and it is not true and asked to see the biological information. Other comments were made on transplanting of plants which is questionable because permitting is required on handling of endangered or threatened species. Ms. Perez also asked for the archeological report and how artifacts were handled. On the eastern part of Guam, it is green and we are losing more and more of green space; destruction of native plants; development has almost reached almost a saturation point, and we need to start thinking about what the community wants. In closing, Ms. Perez likes the idea of renewable energy, but not at the cost of sacrificing Guam's natural habitat, native plants and endangered species. Guam's history and heritage has to be preserved. More information is needed before a decision is made.

Robert Unpingco has lived in this area, and has nothing against the developer. He asked that the developer consider his and his brother's property. Their property is located next to the solar plant and the solar farm would be their view. He is not against the project provided that the developer thinks about his property and that they provide he and his brother with power and water. Another concern Mr. Unpingco had was typhoons. The solar panels can be "flying missiles", and added that he was confident that the developer will be responsible for any damages caused to this property.

<u>Catherin Brunson</u> cleared a few things for the record. This is an issue that the U.S. Fish and Wildlife has experienced. A lot of people get them confused with the local agencies, and this seems to be the case with this application. A lot of people will go to the Department of Agriculture, Division of Aquatic and Resources, get approval through them and think they have approval through U.S. Fish and Wildlife; they are two completely separate agencies. DAR is a local Government of Guam agency and U.S. Fish and Wildlife service is a federal agency under the Department of Interior. Ms. Brunson commented that no one has been to their office regarding this project and have only heard about this project through rumors. In closing, Ms. Brunson requested for information on biological surveys done, methodology, timing, qualifications of the people that did the surveys.

John Cruz (Acting General Manager, GPA) he has worked on this project, and it's been a number of years to try and get it off the ground. This is the wave of the future, and the burning of fuel in fossil fuel generators creates tons of bad emission. The price of fuel is beginning to climb up again, and this will help from an environmental standpoint on air emission, it helps in an economic sense in the creation of jobs, and development on Guam. This solar farm will be a showcase for the island. There are sufficient and quite a number of benefits for the entire island, for the people of Guam as customers and reducing the power cost.

Marcel Camacho asked to speak so that he could direct a question to Mr. John Cruz.

Acting Chairman Cruz responds to Mr. Camacho that he had every opportunity to make inquires at the public hearing held at the Mangilao Mayor's Office. Residents in attendance at this public hearing were afforded the opportunity to ask questions, and that was the proper venue for the technical questions.

[Mr. Camacho disagreed on Acting Chairman Cruz's comments and a back and forth discussion ensues. Acting Chairman Cruz allows Mr. Marcel Camacho five minutes to speak.]

<u>Marcel Camacho</u> read his written testimony to the Commission on the application for review/approval. [For full content/context, please see attached exhibit.]

[Note for record - Mr. Camacho submitted a written testimony for Catherine Illarma.]

Acting Chairman Cruz there were no additional public comments noted, Acting Chairman Cruz closed the public comment period.

Acting Chairman Cruz noted that because of the time, it was the order of the Commission to recess today's hearing. The application will be placed on the next available GLUC hearing date.

- V. Administrative and/or Miscellaneous Matters [None]
- VI. <u>Adjournment</u> [Commission recessed at 7:15 p.m.]

The regular meeting of the Hybrid Land Use Commission for Thursday, December 14, 2017 was recessed at 7:15 p.m.

John Z. Arroyo, Cha Hybrid Land Use Co	
Transcribed by:	
Mozuliere	(
M. Cristina Gutierre DLM, Planning Divis	z, Recording Secretary sion
Date approved:	1. X. 2018

Approved by:

ATTACHMENT A



DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÅHAN (Government of Guam)



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EDDIE BAZA CALVO Governor

RAY TENORIO Lieutenant Governor

December 5, 2017

MEMORANDUM

TO:

Chairman, Guam Land Use Commission

FROM:

Guam Chief Planner

SUBJECT:

Staff Report - Application No. 2017-04, Zone Change from "A" (Agricultural/Rural) to "C" (Commercial) Zone on Lot 7, Tract 10417 in the

Municipality of Yigo

1. PURPOSE:

- A. Application Summary: The Applicant, Kevin J. Yang, represented by Daniel D. Swavely, request for a zone change from "A" (Agricultural/Rural) Zone to "C" (Commercial) Zone, for the proposed Yigo Family Plaza, on Lot 7, Tract 10417, in the Municipality of Yigo, under Application No. 2017-04.
- B. Legal Authority: Sections 61630 to 61638 of Chapter 61 (Zoning Law), Title 21, GCA (Real Property).

2. FACTS:

- A. Location: The project site is located about three hundred fifty feet in from Route 1 in Yigo along Chalan Lujuna, a sixty feet wide Public Access and Utility Easement.
- B. Lot Area: The lot area is 3.14 Acres or 12,714 Square Meters or 136,656 Square Feet.
- C. Present Zoning: "A" (Agricultural/Rural) Zone.
- D. Field Description: The lot is undeveloped with heavy vegetation.
- E. Masterplan: Residential Medium High
- F. Community Design Plan: Urban Residential Low Density
- G. Previous Commission Action: None

3. APPLICATION CHRONOLOGICAL FACTS:

A. Date Application Accepted: November 28, 2016

B. Date Heard By ARC: February 2, 2017

C. Public Hearing Results: A public hearing was held on November 1, 2017 at 6:04 PM at the Yigo Senior Center. Present were planning staff, the applicant and his representative Mr. Dan Swavely, and five concerned citizens.

Mr. Swavely explained the location of the project and the proposed activity should the zone change be approved. The public were concerned about the present conditions of traffic in the area and what the potential impacts of locating a commercial complex on the subject lot would mean to the residents who live on Chalan Lajuna. Other concerns regarding the conditional approval of projects by the Guam Land Use Commission as well as other Government of Guam agencies and the lack of enforcement by the Government of such conditions was brought up but not against necessarily directed at the applicants request. Included as attachment 1 is the public hearing results.

Resident of Perez Acres, Dr. Thomas Rozycki read his testimony in objection to the rezoning action, this testimony is submitted as **attachment 2**. There were no other questions or concerns and the hearing was closed at 6:59 p.m.

4. <u>STAFF ANALYSIS:</u> As proposed by this application, the request is to change the existing "A" (Agricultural/Rural) zone to "C" (Commercial) zone for a proposed commercial complex.

Compatibility with existing uses. The applicant provided a feasibility study which draws attention to market demands. The project site is adjacent to other commercial activities, to which customer traffic is already attracted, and only one lot away from Marine Corps Drive. Additional traffic is generated along Chalan Lajuna which serves nearby residences for crossover traffic between Route 1 and Route 15.

With an emphasis on neighborhood-friendly businesses, the mall can appeal to a variety of small stores, shops and restaurants on which most families rely. The goal for tenant selection will be a mix of products and services that are most commonly needed by both nearby residents as well as commuters. Because of the above, the applicant submits that this zone change from "A" to "C" is very compatible with adjacent and neighborhood developments as they exist.

Title 21 GCA, Chapter 61, Section 61630 cites the Commission may, with the approval of the Governor, change the zones established under this chapter whenever it finds that the public necessity, convenience and general welfare

justifies this action. To assist the Commission on its assessment of the request, the applicants provide their perspective on how such criteria is met and planning staff concludes their finding on such response.

<u>Public Necessity and Convenience:</u> The applicant submits there is demonstrated <u>necessity</u> since Yigo is Guam's second most populous municipality, and has the third highest number of housing units of all municipalities which continuing to attract new families and more residential development. Nonetheless, commercial

development in Yigo does not match its residential growth. The applicant sites that in 2012, of the 2,246 business establishments on Guam, only 75 of those businesses are located in Yigo. Similarly, in the same timeframe (2012), of 60,950 employees on Guam, only 890 worked in Yigo.

The applicant feels that the <u>public convenience</u> is enhanced by locating such facilities in closer proximity to this area nearby Route 1, where a sizeable population of neighborhood residents are presently located. Un-needed travel far away for retail items and services will be reduced if not eliminated significantly, thus saving on energy, fuel costs, and minimizing resident inconvenience and stress.

General Welfare: The general welfare is elevated because there will be new community responsive facilities to provide much needed neighborhood and similar commercial services. Furthermore, the applicant submits that there are increased employment opportunities; as well as tax generating revenue economic activities which all contribute to the general welfare of the community.

We submit that in areas which have the potential to become densely populated, we must anticipate related uses/activities to support such growth. Retail stores and personal service shops have become integral components of growing communities. Thus, the applicant's request appears to be consistent with development trends within Yigo, more so as the subject lot is located within what appears to be a growing commercial hub of the municipality. And as the immediate area transforms accordingly, we believe the granting the zone change will not be materially detrimental to the public welfare but in fact, will serve as that projected planning effort to address community needs of Yigo's in response to the municipality's current and anticipated growth.

We have reviewed the Master Plan and the Community Design Plan for the area which is designated as Residential. An urban-residential design considers the growth of the community to become densely-populated and anticipates related uses/activities to conveniently support growth. Related uses/activities such as the proposed mall, support growth of the community and in this respect, we feel such use will not be contrary to the Plans' objectives. In addition, future land use plans such as the North and Central Guam Land Use Plan designate this area as Mixed Use. The Mixed Use category primarily focuses on larger commercial centers and corridors, including commercial uses that require large sites and draw customers from throughout the island.

5. CONCLUSION

Based on the above preceding discussions, we find the criteria for the grant of zone change is justified. ARC agencies who officially responded have "no objections" as reflected in their position statements. We have not received an Agricultural Impact Statement (AIS)/position statement from the Department of Agriculture, a requirement pursuant to 21 GCA, Chapter 61, Section 61637. Notwithstanding the absence of an AIS, we find within the context of the application, justification that public necessity, convenience and general welfare supports a positive action of the zone change request.

- **RECOMMENDATION:** Based on the above, Planning staff recommends that this application be tabled but should an AIS be presented prior to Commission action, Planning Staff recommends **APPROVAL WITH CONDITIONS** as follows:
 - A. That the applicant adheres to ARC conditions as stated in their official position statements and as may be applicable to any proposed commercial development on the subject property.

Marvin Q Aguilar Guam Chief Planner

ATTACHMENTS:

- 1. Public Hearing Results
- 2. Testimony received from Thomas Rozycki, M.D.

Case Planner: Celine Cruz

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DIPATTAMENTON MINANEHAN TANO' (Department of Land Management) GUBETNAMENTON GUAHAN (Government of Guam)



MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

EDDIE BAZA CALVO Governor

RAY TENORIO Lieutenant Governor

December 7, 2017

MEMORANDUM

TO:

Guam Land Use Commission (GLUC) Members

FROM:

Chairman, Application Review Committee (ARC)

SUBJECT:

Summary of Position Statements by ARC Members

RE:

Zone Change Application No. 2017-04

Listed below are the APPLICATION REVIEW COMMITTEE POSITION STATEMENTS as submitted:

PERMANENT VOTING MEMBERS

1. DEPARTMENT OF LAND MANAGEMENT: Recommend APPROVAL WITH CONDITIONS as follows:

That the Applicants adhere to all ARC recommendations as provided in their respective position statements.

2. **GUAM ENVIRONMENTAL PROTECTION AGENCY:**

No Position Statement has been received as of the date of this Memorandum of December 7, 2017.

3. <u>DEPARTMENT OF AGRICULTURE</u>:

No Position Statement has been received as of the date of this Memorandum of December 7, 2017.

4. **GUAM WATER WORKS AUTHORITY:**

The following comments are conditions for GWA's position in favor of the approval of the zone change application:

 The applicant must provide GWA with site development plans to construct the proposed commercial building. The site development plans must illustrate the proposed point of connection for water and sewer and is subject to GWA inspection and approval. Submittals shall include water and sewer design calculations and complete drawings and specifications. Design calculations

- shall include proposed water demand calculations including fire-flow and sewer production calculations.
- 2. GWA requires the applicant to coordinate with the GWA Engineering Department will in advance of the building permit application submittal. Discussions shall include the proposed water demand and sewer production calculations in order to determine if existing facilities can accommodate the proposed development and if any off-site infrastructure improvements may be necessary.
- If on-site water and sewer infrastructure improvements are installed by the developer, they will require prior approval and shall be subject to inspection by GWA. Any infrastructure improvements will be at the expense of the applicant.
- 4. On-site utilities installed on public rights of way or easements to support the proposed development shall be at the expense of the developer/applicant.
- 5. The applicant shall install GWA water meters in the public right of way or easement.
- 6. Backflow prevention devices are required for non-residential activities.
- 7. A grease trap is required if the development will include a food preparation facility.
- 8. New development is subject to water and/or sewer system development charges (SDC).

5. **GUAM POWER AUTHORITY**:

- A. Comments and Recommendations Concerning GPA requirements:
 - Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
 - Coordinate overhead/underground power requirements with GPA Engineering for new structure.
 - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
 - Maintain adequate clearance between any structures and electrical utility easements in accordance with NESC and GPA requirements.
 - Developer/Owner shall provide necessary electrical utility easements to GPA prior to final connection.
 - Provide scheduling and magnitude of project power demand requirements for new loads.
 - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
 - 2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
 - 3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.
 - All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.
- B. General Comments

GPA has no objection to the request subject to the conditions cited above.

6. DEPARTMENT OF PARKS AND RECREATION:

We reviewed our records and found no evidence of any archeological investigation conducted on the subject lot. We have determined that any construction or development proposed on the lot will require an archeological survey to determine if

historic properties are present on the property and the mitigation required for their treatment of disposition, if any.

As to the rezoning of the subject lot, we have no objection to the approval of the subject application.

7. <u>DEPARTMENT OF PUBLIC WORKS</u>:

The Department of Public Works, (DPW) has completed its review with the following requirements from DPW- Division of Capital Improvement Projects (CIP).

- Provide a storm drainage disposal (must be shown in detail and be supported with calculations);
- Parking layout and detail of parking stalls (compact, standard and accessible stalls) must meet the American Disability Act (ADA);
- If the owner chooses to use GSWA disposal or any private services, the location of the trash bin container should be situated in an area that will not hinder the public rights of way.
- Comply with all the geotechnical requirements related to site preparations;
- Road (entrance, exit, sidekicks and pedestrian) must be wide enough for public access; and must be in conformance to the Highway Master Plan.

NOTE: The applicant must coordinate with Guam Fire Department as to the required distance from (Mobil) gas station due to the technical hazard that may be reasonably expected to impact in the structure before and after construction.

DPW recommends approval, subject to the comments after review by the Application Review Committee (ARC) with conditions that the complete set of design drawings incorporating all the engineering disciplines are provided for with the building permit application. The plans shall be in conformance with the latest building code edition and must be signed by a registered engineer or architect.

8. <u>BUREAU OF STATISTICS AND PLANS</u>: The Bureau of Statistics and Plans (Bureau) has completed its review of Application 2017-04 to rezone Tract 10417 Lot 7 from "A" Rural zone to "C" Commercial zone and provides the following comments and recommendations.

Land Use. The North and Central Guam Land Use Plan (NCGLUP) is approved as an element of the Guam Comprehensive Development Plan (GCDP). The subject property is identified "Mixed Use" designation in the Future Land Use Map of the NCGLUP, which states:

"The Mixed Use category primarily focuses on larger commercial centers and corridors, including commercial uses that require large sites and draw customers from throughout the Island. Examples of commercial uses appropriate to this category include but are not limited to department stores, malls, office buildings,

medical and other service uses, hotels/motels and restaurants. Mixed use developments incorporating a variety of types and densities of residential units are also appropriate in this designation. Mixed Use development along corridors should be developed in a manner that focuses density in specific areas or 'transit targets' to support high-quality transit service, and should be developed at a walkable neighborhood scale. Along undeveloped corridors, the mixed use development should be interspersed with development that is lower density to maintain natural character and open space."

The Bureau finds that the proposed commercial activity is consistent with mixed uses in accordance with the North and Central Guam Land Use Plan.

Agricultural District. Tract 10417 Lot 7 is located in an "A" Rural zone in the municipality of Yigo. Guam's zoning law, 21 GCA Real Property, Chapter 16, §61637, states:

"No additional land may be established as a rural zone and no land presently zoned "A" may be rezoned without the Commission first having considered an agricultural impact statement which shall be submitted by the Director of the Department of Agriculture. This statement shall provide a detailed statement of

- (a) The agricultural impact of the proposed rezoning upon the agricultural components of the Guam Master Plan.
- (b) Any adverse conservation or agricultural effects which cannot be avoided should the rezoning be approved.
- (c) The Director's opinion whether said rezoning should be approved and reasons therefore."

The Bureau recommends the applicant, Kevin J. Yang, Inc. to submit an agricultural impact statement addressed to the Director of the Department of Agriculture as required by Guam's zoning law.

Aquifer Protection from Commercial Waste. The subject property is in the boundary of the Ground Water Protection Zone of the Northern Guam Lens Aquifer. The aquifer is an essential resource for Guam and is the primary source of drinking water for eighty percent of the island population. Moreover, the U.S. Environmental Protection Agency has designated the NGLA a sole source aquifer for Guam's drinking water. Therefore, it is of paramount importance to prevent sources of contamination from entering Guam's water supply.

The Bureau is concerned that activities from the proposed commercial zone will adversely affect Guam's sole source aquifer. The Bureau recommends that the property owner, comply with the following:

- Implement practices for managing waste to avoid potential contamination and ensure long term protection of the aquifer pursuant to the "Resource Conservation and Recovery Act of 1976."
- Comply with an Aquifer Protection Review pursuant to the Federal Safe Drinking Water Act, §1424 and Guam Safe Drinking Water Act, 10 GCA
 - Chapter 53. The property owner must work closely with Guam Environmental Protection Agency (EPA) for this review and for implementation of best management practices (BMPs) in preventing runoff from contaminating Guam's sole source aquifer in accordance with the CNM[Guam Stormwater Management Manual.
- 3. Coordinate with the Guam Waterworks Authority (GWA) for water resource conservation and water pollution prevention in protection of the Northern Guam Lens Aquifer pursuant to the "Water Pollution Control Act," 10 GCA Chapter47; 'Water Resources Conservation Act," 22 GCA Chapter 5; 10 GCA Chapter 46, as amended by P.L. 17-87, and the Guam Water Resource Development & Operating Regulations.

Low Impact Development (LID). The subject property is also located in the Mataguac Spring-Frontal Pacific Ocean Watershed. This area has seen an increase in impervious surfaces throughout the years. In between the years 2005 and 2011, the impervious surface area increased by more than five percent according to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP). As surface area increases so does the risk of flooding and degradation of water quality.

The LID approach works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features and minimizing the use of impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Impervious surfaces from roads, parking lots, driveways, sidewalks, and rooftops accelerate stormwater runoff.

The Bureau is concerned that once impervious surfaces are installed, commercial wastes are easily washed into the aquifer. If not managed, this activity can adversely impact Guam's drinking water source and surrounding neighbors.

The Bureau recommends the property owner to consider a green approach by implementing island bioretention, permeable parking and walkways, living roofs, grassed swales and/or rain gardens as a means to avoid or minimize runoff from their property. These approaches will add great benefits such as low maintenance, stormwater management, aquifer recharge, beautification, and neighborhood collaboration in accordance with the North and Central Guam Land Use Plan. An electronic file of the guidebook "Island Stormwater Practice Design Specifications" is available on the Bureau's, Guam Coastal Management Program's website www.bsp3.quam.gov.

Historical and Archaeological Resources. The Bureau recommends coordination with Department of Parks and Recreation, State Historic Preservation Office to ensure the preservation, protection, excavation, and evaluation of specimens and sites pursuant to "Historical Objects and Sites", 21 GCA, Chapter 76.

The **Bureau recommends approval** to the zone change in order to develop a one story 25,000 square foot shopping mall with activities such as a restaurant, convenience/grocery store, a coffee shop, and other compatible activities. The Bureau finds that the zone change from Rural Zone to Commercial Zone is consistent with the North and Central Guam Land Use Plan "Mixed Use" designation.

However, and most especially due to the Aquifer directly below, the activities can detrimentally affect Guam's sole source aquifer and surrounding neighbors if best management measures are not in place to control storm water runoff and prevent contaminants from entering the aquifer. Subsequently, if this application is approved, the property owner is highly encouraged to implement best management and LID practices and any other concerns by all the Application Review Member agencies/department as stipulated. Moreover, the applicant must be required to comply with established laws and the recommendations stipulated above.

As government officials, it is our primary responsibility to ensure that the construction and operations of this proposed endeavor are in a manner designed to protect the public health, safety, and to promote the public welfare and convenience.

We also encourage the applicant to protect Guam's natural resources and to ensure they are used in a sustainable manner.

EX-OFFICIO MEMBERS

1. <u>DEPARTMENT OF PUBLIC HEALTH and SOCIAL SERVICES:</u>

No Position Statement has been received as of the date of this Memorandum of December 7, 2017.

2. **GUAM FIRE DEPARTMENT:**

No Position Statement has been received as of the date of this Memorandum of December 7, 2017.

3. **GUAM ECONOMIC DEVELOPMENT AUTHORITY:**

No Position Statement has been received as of the date of this Memorandum of December 7, 2017.

4. GUAM PUBLIC SCHOOL SYSTEM:

No Position Statement has been received as of the date of this Memorandum of December 7, 2017.

5. DEPARTMENT OF CHAMORRO AFFAIRS:

No Position Statement has been received as of the date of thi Memorandum of December 7, 2017.

Marvin Q. Aguilar Chairman, ARC

Case Planner: Celine Cruz





FELIX C. BENAVENTE Denuty Director

March 8, 2017

MEMORANDUM

TO:

Director, Department of Land Management

FROM:

Director

APPLICANT:

Kevin J. Yang

APPLICATION:

2017-04

SUBJECT:

Rezone from ("A") Agricultural to ("C") Commercial, Lot 7, Tract 10417, Yigo

Buenas yan Hafa Adai! The applicant is requesting to rezone subject property from "A" to "C" with the intent to construct a family plaza neighborhood mall. The proposed mall will be located within a walking distance from Perez Acres Subdivision adjacent to Yigo Town Center. (See attached map). The Plaza will consist of a restaurant, grocery store, coffee shop, branch copy express and a specialty merchandise store.

The Department of Public Works (DPW) has completed its review with the following requirements from DPW-Division of Capital Improvement Projects (CIP).

- provide a storm drainage disposal (must be shown in detail and be supported with calculations);
- parking layout and detail of parking stalls (compact, standard and accessible) which must meet the American Disability Act (ADA);
- if the owner chooses to use GSWA disposal or any private services, the location of the trash or bin container should be situated in an area that will not hinder the public rights of way;
- comply with all the geotechnical requirements related to site preparations;
- road (entrance, exit, sidewalks and pedestrian) must be wide enough for public access; and must be in conformance to the Highway Master Plan.

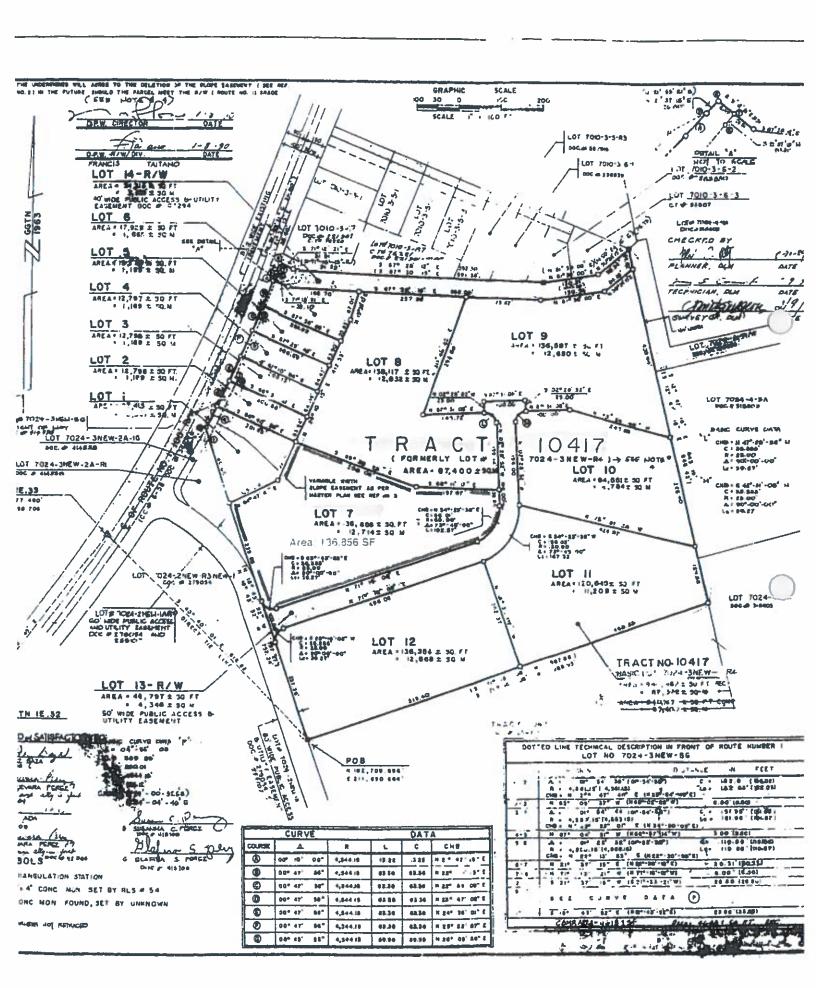
NOTE: The applicant must coordinate with Guam Fire Department as to the required distance from (Mobil) gas station due to technological hazard that may be reasonably expected to impact in the structure before and after construction.

DPW recommends approval, subject to the comments after review by the Application Review Committee (ARC) with conditions that a complete set of design drawings incorporating all the engineering disciplines are provided for building permit. The plans shall be in conformance with the latest building code edition and must be signed by a registered engineer or architect.

If you have any questions, please call Mr. John F. Calanayan, Acting Engineer in Charge or Maryrose M. Wilson, Engineer III at Division of Capital Improvement Projects (CIP) at 646-3189 or 646-3224. Dangkulu na Si Yu'os Ma'ase!

GLENN LEON/GUERRERO

8. 03/10/13/





GUAM POWER AUTHORITY

ATURIDÅT ILEKTRESEDÅT GUAHAN P.O.BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

RECEIVED

January 24, 2017

MS 3 | JAN 3 0 2017

MEMORANDUM

To:

Chairman, Guam Land Use Commission

Executive Secretary, Guam Land Use Commission

From:

General Manager

Subject:

Lot 7, Tract 10417, Municipality of Yigo, (Kevin J. Yang); Zone Change Application from "A" (Agricultural) to "C" (Commercial) to construct 65 single or multi-family

residential with 48 vacant lots suitable for housing. Application No. 2017-04

Guam Power Authority has reviewed the application described above and submits the following position statement:

A. Comments and Recommendations Concerning GPA requirements:

- 1. Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
 - Coordinate overhead/underground power requirements with GPA Engineering for new structures.
 - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
 - Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
 - Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.
 - Provide scheduling and magnitude of project power demand requirements for new loads.
 - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
- 2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
- A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.
- 4. All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.

B. General Comments

GPA has no objection to the request subject to the conditions cited above.

JOHNM. BENAVENTE, P.E.

ASG/arp

VFSR.

Q

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: Guam Power Authority Applicant: Kevin J. Yang Location: Lot 7, Tract 10417, Yigo Type of Application: Zone Change

GLUC/GSPC Application No. 2017-04

Brief Project Description:

"A" to "C" to construct 65 single or multi-family residential with 48 vacant lots suitable for housing.

For the purposes of this Certification, GOVERNMENT SERVICES, FACILITIES, and INFRASTRUCTURE include, but are not limited to: power lines poles and facilities; water lines, pumps and facilities; sewer and liquid waste disposal; storm water disposal; solid waste disposal; telephone lines and facilities; schools; health facilities; police and fire fighting service and facilities; roads; traffic and street lights; parks and recreational activities.

1.	I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently AVAILABLE AND IN PLACE to support this project: Yes No					
2.	If the answer to #1 above is YES, then: I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently ADEQUATE to support this project:					
	Yes ☐ No ⊠					
3.	If the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE currently in					

place are NOT AVAILABLE or they are AVAILABLE, BUT NOT ADEQUATE, itemize the services, facilities and infrastructure that are needed, the estimated cost thereof and whether funds are currently available and identified to develop such services, facilities and infrastructure:								
Services, Facilities and	Cost of Upgrades	Funds	Date Available	Funds				

Cost of Upgrades	Funds	Date Available	Funds
	Available		Identified
	Cost of Upgrades		

I hereby certify that the foregoing is true and correct to the best of my knowledge.

Comments:

Based on a preliminary inspection of the site, the electrical facilities may require upgrading to meet the demand of the proposed project. A system impact assessment maybe required to determine the effect of this facility on GPA's existing power distribution system. The applicant will be responsible for the cost of any required system upgrade.

Eddie Baza Calvo Governor of Guam



(fra)

William C. Medonald
Acting Director
Manuel Q. Cruz
Deputy Director

APR 0 3 2017

Ray Tenorio
Lieutenant Governor

Government of Guam P.O. Box 2950 Hagatña, Guam 96932 Tel: (671) 472-4201/3 Fax: (671) 477-1812

MEMORANDUM

TO:

Chairman, Guam Land Use Commission

VIA:

Executive Secretary, Department of Land Management

FROM:

Acting Director, Bureau of Statistics and Plans

SUBJECT:

Position Statement on Application 2017-04; Tract 10417, Lot 7 Municipality

of Yigo, Guam from "A" Rural Zone to "C" Commercial Zone; Applicant: Mr.

Kevin J. Yang c/o Daniel D. Swavely

Håfa Adai! Applicant, Mr. Kevin J. Yang represented by consultant, Daniel D. Swavely seeks to rezone his property located in the Municipality of Yigo, from "A" Rural zone to "C" Commercial zone. The applicant proposes to construct a one story 25,000 square foot shopping mall with activities such as a restaurant, convenience/grocery store, a coffee shop, and other similar activities.

Tract 10417, Lot 7 is located just off the Chalan Lujuna road close to Perez Acres. The property is currently forested and is 136,856 square feet or approximately 3.1 acres and is surrounded by the Perez Acres Subdivision and the Ada Yigo Town Center. A vacant property separates Marine Corp Drive from the applicant's property.

The Bureau of Statistics and Plans (Bureau) has completed its review of Application 2017-04 to rezone Tract 10417 Lot 7 from "A" Rural zone to "C" Commercial zone and provides the following comments and recommendations.

Land Use. The North and Central Guam Land Use Plan (NCGLUP) is approved as an element of the Guam Comprehensive Development Plan (GCDP). The subject property is identified "Mixed Use" designation in the Future Land Use Map of the NCGLUP, which states:

OMP .5.

"The Mixed Use category primarily focuses on larger commercial centers and corridors, including commercial uses that require large sites and draw customers from throughout the Island. Examples of commercial uses appropriate to this category include but are not limited to department stores, malls, office buildings, medical and other service uses, hotels/motels and restaurants. Mixed use developments incorporating a variety of types and densities of residential units are also appropriate in this designation. Mixed Use development along corridors should be developed in a manner that focuses density in specific areas or 'transit targets' to support high-quality transit service, and should be developed at a walkable neighborhood scale. Along undeveloped corridors, the mixed use development should be interspersed with development that is lower density to maintain natural character and open space."

The Bureau finds that the proposed commercial activity is consistent with mixed uses in accordance with the North and Central Guam Land Use Plan.

Agricultural District. Tract 10417 Lot 7 is located in an "A" Rural zone in the municipality of Yigo. Guam's zoning law, 21 GCA Real Property, Chapter 16, §61637, states:

"No additional land may be established as a rural zone and no land presently zoned "A" may be rezoned without the Commission first having considered an agricultural impact statement which shall be submitted by the Director of the Department of Agriculture. This statement shall provide a detailed statement of:

- (a) The agricultural impact of the proposed rezoning upon the agricultural components of the Guam Master Plan.
- (b) Any adverse conservation or agricultural effects which cannot be avoided should the rezoning be approved.
- (c) The Director's opinion whether said rezoning should be approved and reasons therefore."

The Bureau recommends the applicant, Kevin J. Yang, Inc. to submit an agricultural impact statement addressed to the Director of the Department of Agriculture as required by Guam's zoning law.

Aquifer Protection from Commercial Waste. The subject property is in the boundary of the Ground Water Protection Zone of the Northern Guam Lens Aquifer. The aquifer is an essential resource for Guam and is the primary source of drinking water for eighty percent of the island population. Moreover, the U.S. Environmental Protection Agency has designated the NGLA a sole source aquifer for Guam's drinking water. Therefore, it is of paramount importance to prevent sources of contamination from entering Guam's water supply.

The Bureau is concerned that activities from the proposed commercial zone will adversely

affect Guam's sole source aquifer. The Bureau recommends that the property owner, comply with the following:

- Implement practices for managing waste to avoid potential contamination and ensure long term protection of the aquifer pursuant to the "Resource Conservation and Recovery Act of 1976."
- 2. Comply with an Aquifer Protection Review pursuant to the Federal Safe Drinking Water Act, §1424 and Guam Safe Drinking Water Act, 10 GCA Chapter 53. The property owner must work closely with Guam Environmental Protection Agency (EPA) for this review and for implementation of best management practices (BMPs) in preventing runoff from contaminating Guam's sole source aquifer in accordance with the CNMI Guam Stormwater Management Manual.
- 3. Coordinate with the Guam Waterworks Authority (GWA) for water resource conservation and water pollution prevention in protection of the Northern Guam Lens Aquifer pursuant to the "Water Pollution Control Act," 10 GCA Chapter 47; "Water Resources Conservation Act," 22 GCA Chapter 5; 10 GCA Chapter 46, as amended by P.L. 17-87, and the Guam Water Resource Development & Operating Regulations.

Low Impact Development (LID). The subject property is also located in the Mataguac Spring-Frontal Pacific Ocean Watershed. This area has seen an increase in impervious surfaces throughout the years. In between the years 2005 and 2011, the impervious surface area increased by more than five percent according to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP). As surface area increases so does the risk of flooding and degradation of water quality.

The LID approach works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features and minimizing the use of impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Impervious surfaces from roads, parking lots, driveways, sidewalks, and rooftops accelerate stormwater runoff.

The Bureau is concerned that once impervious surfaces are installed, commercial wastes are easily washed into the aquifer. If not managed, this activity can adversely impact Guam's drinking water source and surrounding neighbors.

The Bureau recommends the property owner to consider a green approach by implementing island bioretention, permeable parking and walkways, living roofs, grassed swales and/or rain gardens as a means to avoid or minimize runoff from their property. These approaches will add great benefits such as low maintenance, stormwater management, aquifer recharge, beautification, and neighborhood collaboration in accordance with the North and Central Guam Land Use Plan. An electronic file of the guidebook "Island Stormwater Practice Design Specifications" is available on the Bureau's, Guam Coastal Management Program's website

BSP Position Statement 2017-04 Page 4

www.bsp3.guam.gov.

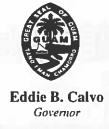
Historical and Archaeological Resources. The Bureau recommends coordination with Department of Parks and Recreation, State Historic Preservation Office to ensure the preservation, protection, excavation, and evaluation of specimens and sites pursuant to "Historical Objects and Sites", 21 GCA, Chapter 76.

The **Bureau recommends approval** to the zone change in order to develop a one story 25,000 square foot shopping mall with activities such as a restaurant, convenience/grocery store, a coffee shop, and other compatible activities. The Bureau finds that the zone change from Rural Zone to Commercial Zone is consistent with the North and Central Guam Land Use Plan "Mixed Use" designation.

However, and most especially due to the Aquifer directly below, the activities can detrimentally affect Guam's sole source aquifer and surrounding neighbors if best management measures are not in place to control stormwater runoff and prevent contaminants from entering the aquifer. Subsequently, if this application is approved, the property owner is highly encouraged to implement best management and LID practices and any other concerns by all the Application Review Member agencies/department as stipulated. Moreover, the applicant must be required to comply with established laws and the recommendations stipulated above.

As government officials, it is our primary responsibility to ensure that the construction and operations of this proposed endeavor are in a manner designed to protect the public health, safety, and to promote the public welfare and convenience. We also encourage the applicant to protect Guam's natural resources and to ensure they are used in a sustainable manner.

WILLIAM C. MCDONALD
Acting Director



Lepartment of Parks and Recreatic. Government of Guam

490 Chalan Palasyo, Agana Heights, Guam 96910 Director's Office: (671) 475-6296/7; Fax (671) 477-0997 Parks Division: (671) 475-6288/9 Guam Historic Resources Division: (671) 475-6294/5

Facsimile: (671) 477-2822



Robert S. Lizama

William N. Reyes
Deputy Director

Ray Tenorio
Lt. Governor

In reply refer to: RC2016-0951

February 17, 2017

To:

Executive Secretary, Guam Land Use Commission

From:

Director, Department of Parks and Recreation

Subject:

DPR Position Statement on DLM Application No. 2017-04:

Rezone Lot 7, Tract 10417, Yigo, to Commercial for Yigo Family Plaza

We reviewed our records and found no evidence of any archaeological investigation conducted on the subject lot. We have determined that any construction or development propose on the lot will require an archaeological survey to determine if historic properties are present on the property and the mitigation required for their treatment of disposition, if any.

As to the rezoning of subject lot, we have no object to the approval of subject application. If you have any questions regarding our position, please do not hesitate to contact our office.

Sincerely,

Robert S. Lizama

Director

Cc: Dan D. Swavely, Consulting Service, Inc.

dds@guam.ne

Com Co



GUAM WATERWORKS AUTHORITY

Gloria B. Nelson Public Service Building 688 Route 15, Mangilao, Guam 96913

APR 6.7 201/

Department of Land Management

MEMORANDUM

March 17, 2017

TO: Director, Department of Land Management

FROM: Miguel C. Bordallo, P.E., General Manager

SUBJECT: Position Statement on Zone Change Application No. 2017-

14 for Lot 7, Tract 10417, in the Municipality of Yigo.

APPLICANT(S): Kevin J. Yang represented by Daniel D. Swavely

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone change from "A" (Agricultural) to "R2" (Commercial) zone for the proposed development of a commercial building (Yigo Family Plaza).

This memorandum shall serve as GWA's position statement to the above zone change request related to availability of water and sewer infrastructures to serve the above subject lot. This position statement shall not be construed as notice that water and sewer systems have the capabilities to accommodate the proposed development including fire flow without on-site or off-site improvements. Any extension of the water and sewer systems and/or capacity upgrades required to serve the property shall be subject to the rules and regulations of GWA. Any required extension to the existing facilities to serve the subject properties shall be at expense of the applicant.

Given the information provided in the application and field observations, the following comments are conditions for GWA's position in favor of the approval of this zone change application:

1. The applicant must provide GWA with site development plans to construct the proposed commercial building. The site development plans must illustrate the proposed point of connection for water and sewer and is subject to GWA inspection and approval. Submittals shall include water and sewer design calculations and complete drawings and specifications. Design calculations shall include proposed water demand calculations including fire-flow and sewer production calculations. Page 2
GWA Position Statement
ARC Application No. 2017-14
Applicant(s): Kevin J. Yang represented by Daniel D. Swavely

- 2. GWA requires the applicant to coordinate with the GWA Engineering Department well in advance of the building permit application submittal. Discussions shall include the proposed water demand and sewer production calculations in order to determine if existing facilities can accommodate the proposed development and if any off-site infrastructure improvements may be necessary.
- If off-site water and sewer infrastructure improvements are installed by the developer, they will require prior approval and shall be subject to inspection by GWA. Any infrastructure improvements will be at the expense of the applicant.
- 4. On-site utilities installed on public rights of way or easements to support the proposed development shall be at the expense of the developer/applicant.
- 5. The applicant shall install GWA water meters in the public right of way or easement.
- 6. Backflow prevention devices are required for non-residential activities.
- 7. A grease trap is required if the development will include a food preparation facility.
- 8. New development is subject to water and/or sewer system development charges (SDC).

This GWA Position Statement shall remain valid for 365 calendar days from the date of this response. Please contact GWA Engineering Division regarding water and sewer system improvement design and construction standards and procedures. For additional information please contact Mauryn McDonald, P.E., Permits and New Area Development Supervisor, at 300-6054.



Dipåttamenton Agrikottura

Matthew L.G. Sablan Director

Jessie B. Palican

Deputy Director

Governor

Ray Tenorio

Lt. Governor

Director's Office Agricultural Development Services Plant Nursery Aquatic & Wildlife Resources Forestry & Soil Resources Plant Inspection Station Animal Health

Department of Agriculture

300-7973 / 7972 / 7967 300-7974 735-3955/56; Fax 734-6570 300-7975/6

300-7970 / 7969 / 7966

475-1426/27; Fax 477-9487

300-7965 Fax 734-6569

December 11, 2017 Memorandum

To:

Director, Department of Land Management

Attn:

Executive Secretary, Guam Land Use Commission and Guam Seashore Protection

Commission

From:

Director of Agriculture

Subject:

"Agricultural & Environmental Impact Statement" for a "Zone Change" request

from an "Agrcultural" to a "C" for application 2017-04 on Lots 7 Tract 10417 Yigo

Family Plaza Located in Yigo. (Kevin J. Yang).

Agriculture has reviewed the subject lot for a "Zone Change" request from an Agricultural to a Commercial zone and has no opposition to the proposed zone change for the construction of a Family Plaza Shopping Mall development. Our agency will recommend approval of the zone change with the following statements, conditions and requirements set forth in 21 GCA Chapter 61 Section 61637 as our preliminary inspection of the site found no adverse impact to Agricultural activity and to any Endangered Species and other protected Coastal Zones, Wetland habitat and Watersheds.

The proposed zone change for the lot is located in an area that has been traditionally used for various farming and ranching activities in the past. Currently no such "Agricultural" activity has been identified for this particular site in over 20 years and no active farms are in this immediate area. The current uses of the surrounding facilities are in line with the proposed zone change and subsequent development into a full service commercial center. Therefore no adverse impact to any agricultural activity exists either within the property scope or to surrounding properties. With regard to any immediate damage to the environment should the project proceed our agency will require the following conditions to be met and implemented onto the project site once any clearing and grading is to take place.

Should the proposed zone change be approved and the project moves into the build phase be aware that the proper Clearing and Grading permits must be obtained and registered with the Department of Public Works One Stop section with all the regulatory agencies signed off on the permit in order to proceed with mass clearing and grading of the site. No land clearing activity is to occur prior to securing the proper permit.

As rapid development occurs in this region of the island the destruction and removal of native tree species increases the potential for pollution and the loss of Guam's Northern Aquifer the primary source of drinking water that supplies the island. As such our agency requires that a comprehensive landscaping plan address this deficiency in development of the northern part of the island and as it relates to the construction of Yigo Family Plaza to be built on this site. Should the proposed project precede Agriculture recommends that the lot designated for build will have elements of a green zone dedicated to it, as part of the overall landscaping plan. If this includes parking and green zones not identified in the application the use of native trees that originate in this area is highly recommended as they are suitable and will adapt readily to the existing soils. Simply, the re-planting of native trees in a dedicated section of the lot(s) or allowing the existing fauna to remain as is vital in maintaining the aquifer and the surrounding habitat to allow for a healthy and vibrant eco-system. The root system of these trees helps to prevent erosion and assists in filtering out synthetic contaminants and other manmade chemicals that would otherwise make its way into the aquifer and polluting it. The Department of Agriculture has several programs and personnel that can assist you in developing a plan to address this issue.

Please contact our Agricultural Development Services & Forestry divisions here at the agency for further assistance and guidance at 300-7972 & 7976 respectively. Our Forestry division grows and maintains these native tree species should you choose to incorporate them into the project. Contact their office for assistance and consultation at 300-7976. Please be aware that the increased loss of Guam's native habitat contributes to a diminished capacity to sustain and support a healthy island community. It is vital that all land developers take a proactive step in preventing and causing this loss. To fully benefit and see these eco-friendly practices being used visit our Department of Agriculture Organic and Environmental Demonstration Farm. The demonstration farm displays various planting techniques that will aid the incorporation of flora back into the landscape to ease and possibly eliminate further damage to the environment. The planting of native trees will add to the aesthetic appeal of the development as it uses the trees that were once abundant in this part of Yigo. The trees will also serve to provide shading for its residents, windbreak capabilities during heavy weather, erosion control, filtration of runoff and a more nature driven development that takes into account Guam's vital natural resources.

During our site investigation of the area there where no incidents of the "Little Fire Ant" (Wassmannia auropunctata) however be aware that there are reported infestations located at the Yigo waste dumpsite which hes on the back road of Rte.15 the opposite end of this property. This is of concern as the presence of this invasive and threatening species could spread to this area if heavy equipment is being used on other sites and brought into this area by contamination of equipment and vehicles. To avoid issues from occurring and preventing future problems down the road we recommend that equipment entering the work site be properly treated by a licensed pesticide company. In addition to this any clearing of vegetation should also be handled with care as stockpiling of green waste will act as a breeding and nesting site for the "Coconut Rhinoceros Beetle" (Oryctes rhinoceros) larvae. All green waste should be transported to a facility that can properly dispose and treat the organic matter either through mulching and composting. By having the green waste recycled the plant material can be used to provide landscaping material back into the project for weed control and aesthetics for a proper managed landscaping plan. Please see the listing for these companies that are available on line or for proper guidance you can contact our office for further assistance in using their services.

Once again should the project proceed to the build phase and the permits for land clearing and grading are secured be aware that Guam is a migratory route for various species of birds to use as a resting point. During our investigation and inspection of the site no birds were observed. However there exist a strong possibility that the site is used as it contains very little human activity that would otherwise discourage them from landing. If these species of migratory birds are observed at any point on the site no interference is to occur either to prevent them from landing or disturbance and disruption of their normal behavior should be altered.

Please be aware that development and the loss of Guam's natural habitat can have a devastating effect on the quality of life here on island. It is vital that all land developers take a conscious approach in protecting our resources for future island residents and the general well being of our delicate eco-system. The guidelines as listed in this Impact Assessment should be used as a template to ensure continuation of Guam's habitat. For other earth friendly techniques and guidance please contact our offices at 300-7973. Thank you in this regard.

MATTHEW L.G. SABLAN

Director

Daniel D. Swavely Consulting Services, Inc.

December 07, 2017

Mr. John Z. Arroyo, Chairman Guam Land Use Commission c/o Department of Land Management Government of Guam P.O. Box 2950 Hagatna, Guam 96910

Subject:

APPLICATION 2017-04 to Rezone Lot 7 Tract 10417, Yigo

to Commercial for Yigo Family Plaza

Re:

Supplemental Application #1

Hafa Adai Mr. Chairman and Commissioners,

Please accept this supplemental information in further support of the Subject application. This information was compiled during the application review process and demonstrates how input from the government, neighbors and the public-atlarge helps to shape community development within the GLUC rezoning process.

A. Summary of Comments from Perez Acres Homeowners Association on October 25, 2017 and Responses by Applicant (signed by applicant Kevin Yang, Ysengsong, Inc.). Sent to J. Merrill, spokesperson for the Perez Acres Homeowners Association, on November 09. See Exhibit 1.

The Perez Acres Homeowners Association is requesting the following.

- Provide exterior landscaping.
 Applicant will provide exterior landscaping.
- Provide 24/7 security of the premises.
 Applicant will provide for 24/7 security via guard(s) and/or roving patrol.
- Provide exterior lighting.
 Applicant will provide exterior lighting.
- 4. Consider a second ingress/egress between YFP and "Dewan Drive". Applicant will work with project's civil engineer and DPW about this second access on Dewan Drive. If this second ingress/egress is allowable and results in better traffic movement, Applicant will provide.

301 Frank H Cushing Way #1201 Tumon, Guam 96913 Cell: (671) 688-8029 Email: dds@guam.net Provide sidewalk along Ch. Lujuna and YFP property.
 Applicant will provide a standard size, concrete sidewalk along Ch. Lujuna and the Yigo Family Plaza property. If the Yigo Family Plaza property frontage along Ch. Lujuna increases, the Applicant will extend its sidewalk accordingly.

6. Support road widening on Ch. Lujuna.

Applicant will direct its Consultant to work with DPW and Parsons Brinckerhoff Guam Transportation Group (responsible for the Guam Highway Master Plan) to elevate Ch. Lujuna improvements to a priority level which results in the earliest possible implementation. The Perez Acres HOA is invited to participate in this task.

See Exhibit 2 - letter to Director of Public Works, dated November 30, 2017, requesting that the Director provide an explanation of improvements for the entire length of Ch. Lujuna in the 2020 and 2030 Highway Master Plan and otherwise.

7. Support an extended (3-minute?) left/turn signal from Ch. Lujuna to Marine Corps Drive.

Applicant will direct its Consultant to work with DPW and Parsons Brinckerhoff Guam Transportation Group to recalibrate the left turn signal at this intersection so as to reflect current traffic volume. The Perez Acres HOA is invited to participate in this task.

Refer to Exhibit 2 - letter to Director of Public Works, dated November 30, 2017, requesting that the Director begin protocol for studying the left-turn vehicle movements from Ch. Lujuna onto Marine Corps Drive in order to justify a longer left-turn interval.

B. Summary of Comments from Public Hearing on November 01, 2017 and Responses by Applicant (signed by applicant Kevin Yang, Ysengsong, Inc.). Sent to J. Merrill, spokesperson for the Perez Acres Homeowners Association, on November 09. Refer to Exhibit 1.

The Perez Acres Homeowners Association is requesting the following.

1. The Applicant should continue to seek open accesses among Yigo Family Plaza, Yigo Town Center and McDonald's.

Applicant will continue to promote this open access scheme with the owners of Yigo Town Center and McDonald's. This is also the Applicant's preferred scheme. The Perez Acres HOA is invited to participate in this work.

Daniel D. Swavely Consulting Services, Inc.

See Exhibit 3 - letter to Michael Muyco, Area Construction Manager for McDonald's, dated December 02, 2017, again requesting that McDonald's cooperate in providing interconnections between the new McDonald's store at the intersection of Ch. Lujuna and Marine Corps Drive and the proposed Yigo Family Plaza in order to eliminate the McDonald's ingress/egress at Ch. Lujuna.

See Exhibit 4 - letter to P. Sonny Ada, President of Ada's Trust and Investment (owner of Yigo Town Center), dated December 01, 2017, again requesting consideration of the option to interconnect Yigo Town Center with the proposed Yigo Family Plaza in order to provide for convenient and safe passage between customers from both establishments without using Marine Corps Drive or Ch. Lujuna.

2. The preferred egress from McDonald's to Ch. Lujuna is via Yigo Family Plaza.

This is also the Applicant's preferred scheme. **Refer to Exhibits 3 and 4.**

3. GLUC shall take action to provide for a new traffic signal at the intersection of Perez Acres and Ch. Lujuna.

GLUC's authority in this matter is likely limited to advisory only. However, the Applicant will direct its Consultant to work with DPW and Parsons Brinckerhoff Guam Transportation Group to document the safety issues and measure traffic volume at that intersection in order justify a traffic signal at this intersection. The Perez Acres HOA is invited to participate in this work.

Refer to Exhibit 2 - letter to Director of Public Works, dated November 30, 2017, requesting that the Director begin protocol for studying the left-turn vehicle movements from Ch. Lujuna onto Marine Corps Drive in order to justify a longer left-turn interval.

4. GLUC shall take action to provide for the upgrade of Ch. Lujuna to reflect current traffic and anticipated (both civilian and military build-up) traffic. GLUC's authority in this matter is likely limited to advisory only. Nonetheless, GLUC's opinion can carry considerable influence, particularly when presented in a formal manner, with justification and with public support. The Applicant will direct its Consultant to work with GLUC, DPW and Parsons Brinckerhoff Guam Transportation Group to justify and promote this improvement. The Perez Acres HOA is invited to participate in this work.

301 Frank H Cushing Way #1201 Tumon, Guam 96913 Cell: (671) 688-8029 Email: dds@guam.net **Refer to Exhibit 2** - letter to Director of Public Works, dated November 30, 2017, cited above.

5. GLUC is expected to adopt these recommendations by the Perez Acres HOA and oversee their implementation.

The Perez Acres HOA made this expectation clear to the Land Management Hearing Officer at the public hearing.

C. Archaeological Reconnaissance Survey

See Exhibit 5 - letter from Director of Parks and Recreation approving the Survey report and accepting the recommendations.

D. Position Statements for Application Review Committee

To date we have received position statements from:

Bureau of Statistics and Plans – recommends approval with conditions; Guam Waterworks Authority – favors approval with conditions; Department of Public Works – recommends approval with conditions; Department of Parks and Recreation – no objection to approval with conditions;

Guam Power Authority - no objection to approval with conditions.

We have no objection to the conditions imposed for approval by these agencies.

E. Letter of Support from Mayor Matanane of Yigo

See Exhibit 6.

Respectfully and on behalf of Kevin J. Yang,

Daniel D. Swavely

Enclosures as stated

YIGO FAMILY PLAZA REZONING APPLICATION

Comments from Perez Acres Homeowners Association and Responses by Applicant

Comments from the private presentation to Perez Acres residents at Perez Acres on October 25

The Perez Acres Homeowners Association is requesting the following.

- Provide exterior landscaping.
 Applicant will provide exterior landscaping.
- Provide 24/7 security of the premises.
 Applicant will provide for 24/7 security via guard(s) and/or roving patrol.
- Provide exterior lighting.
 Applicant will provide exterior lighting.
- 4. Consider a second ingress/egress between YFP and "Dewan Drive". Applicant will work with project's civil engineer and DPW about this second access on Dewan Drive. If this second ingress/egress is allowable and results in better traffic movement, Applicant will provide.
- 5. Provide sidewalk along Ch. Lujuna and YFP property. Applicant will provide a standard size, concrete sidewalk along Ch. Lujuna and the Yigo Family Plaza property. If the Yigo Family Plaza property frontage along Ch. Lujuna increases, the Applicant will extend its sidewalk accordingly.
- 6. Support road widening on Ch. Lujuna.

 Applicant will direct its Consultant to work with DPW and Parsons
 Brinckerhoff Guam Transportation Group (responsible for the Guam
 Highway Master Plan) to elevate Ch. Lujuna improvements to a
 priority level which results in the earliest possible implementation.
 The Perez Acres HOA is invited to participate in this task.
- 7. Support an extended (3-minute?) left/turn signal from Ch. Lujuna to Marine Corps Drive.

Applicant will direct its Consultant to work with DPW and Parsons Brinckerhoff Guam Transportation Group to recalibrate the left turn signal at this intersection so as to reflect current traffic volume. The Perez Acres HOA is invited to participate in this task.

Comments from the public hearing on November 01

The Perez Acres Homeowners Association is requesting the following.

1. The Applicant should continue to seek open accesses among Yigo Family Plaza, Yigo Town Center and McDonald's.

Applicant will continue to promote this open access scheme with the owners of Yigo Town Center and McDonald's. This is also the Applicant's preferred scheme. The Perez Acres HOA is invited to participate in this work.

2. The preferred egress from McDonald's to Ch. Lujuna is via Yigo Family Plaza.

This is also the Applicant's preferred scheme. See item #1, above.

3. GLUC shall take action to provide for a new traffic signal at the intersection of Perez Acres and Ch. Lujuna.

GLUC's authority in this matter is likely limited to advisory only. However, the Applicant will direct its Consultant to work with DPW and Parsons Brinckerhoff Guam Transportation Group to document the safety issues and measure traffic volume at that intersection in order justify a traffic signal at this intersection. The Perez Acres HOA is invited to participate in this work.

- 4. GLUC shall take action to provide for the upgrade of Ch. Lujuna to reflect current traffic and anticipated (both civilian and military build-up) traffic. GLUC's authority in this matter is likely limited to advisory only. Nonetheless, GLUC's opinion can carry considerable influence, particularly when presented in a formal manner, with justification and with public support. The Applicant will direct its Consultant to work with GLUC, DPW and Parsons Brinckerhoff Guam Transportation Group to justify and promote this improvement. The Perez Acres HOA is invited to participate in this work.
- 5. GLUC is expected to adopt these recommendations by the Perez Acres HOA and oversee their implementation.

The Perez Acres HOA made this expectation clear to the Land Management Hearing Officer at the public hearing.

KERIN YANG YSENG, SENG, MIC

Daniel D. Swavely Consulting Services, Inc.

November 30, 2017

Mr. Glenn Leon Guerrero, Director Department of Public Works Government of Guam 542 North Marine Corps Drive Upper Tumon, Guam 96913

Subject: Chalan Lujuna, Yigo Re: Improvements needed

Hafa Adai Glenn,

I'm writing on behalf of both property owners and residents in the vicinity of Chalan Lujuna and Route 1, Yigo, about the urgent need for safety improvements in the area of that intersection.

These conditions where strongly expressed during two recent meetings: one a well-attended private gathering with only residents of Perez Acres; and one a public hearing in Yigo with nearby residents, particularly from Perez Acres. These meetings were held in conjunction with the GLUC Rezoning Application #2017-04. There are two issues at stake.

1) The intersection of Perez Acres and Ch. Lujuna is very dangerous. Since Ch. Lujuna is used as a popular connector between Routes 15 and 1 (it was initially a leg of the Haul Road Network), traffic volume is heavy and fast. Although a stop sign is in place to require a Ch. Lujuna stop at that intersection, residents exiting Perez Acres have had countless experiences of westbound Ch. Lujuna vehicles disregarding that stop sign and causing near collisions. Further, it is my understanding that a fatality recently occurred at this intersection.

In the interest of safety, nearby property owners and residents want a 3-way traffic signal at that intersection. We understand that the protocol for installing a signalized intersection requires a formal traffic study and begins with your office. Please approve this request and initiate that protocol.

2) Westbound traffic at the intersection of Ch. Lujuna and Rt. 1 is unnecessarily congested, because the left-turn signal interval onto Marine Corps Drive is too short. It is not unusual for the left-turn cue to require several light cycles. On behalf of all Ch. Lujuna drivers, nearby property owners and residents are urging that this left-turn signal interval to be

> 301 Frank H Cushing Way #1201 Tumon, Guam 96913 Direct Phone: (671) 649-2227 Cell: (671) 688-8029

> > Email: dds@guam.net

Daniel D. Swavely Consulting Services, Inc.

extended. Again, we understand that the protocol for adjusting traffic signal intervals begins with your office. Please approve this request and initiate that protocol.

Lastly, those who attended the private meeting and public hearing are asking about the status of improvements in general for Ch. Lujuna, over its entire stretch from Rt. 1 to Rt. 15. What improvements are planned and for when? Will you please arrange for that information to be available?

Thank you,

Daniel D. Swavely

Authorized Representative for GLUC Rezoning Application #2017-04

cc: Celine Cruz, Case Planner, GLUC Rezoning Application #2017-04

Direct Phone: (671) 649-2227

Cell: (671) 688-8029

Email: dds@guam.net

YSENGSONG, INC.

December 02, 2017

Mr. Michael Muyco Area Construction Manager - Pacific Southwest Field Execution Team McDonald's Restaurants of Hawaii, Inc. 1132 Bishop Street Ste. #2000 Honolulu, HI 96813

Dear Mr. Muyco,

Congratulations on your new store at the corner of Marine Corps Drive and Chalan Lujuna in Yigo. I own the adjacent property to the southeast, and both of our properties abut Chalan Lujuna.

I am in the final stage of rezoning my property for a 25,000 sq. ft. neighborhood mall, the Yigo Family Plaza. During the rezoning process, we held two meetings with local residents. At both a private meeting with nearby Perez Acres residents and at the subsequent public hearing at the Yigo Senior Center, we were strongly encouraged to pursue an interconnection among McDonald's, Yigo Family Plaza and Yigo Town Center, which abuts both of our properties. We believe that much can be learned from public hearings, particularly when those neighbors will likely be future customers of our respective establishments.

From the very beginning of planning my Yigo Family Plaza, I allowed for an interconnection with your McDonald's property in order to minimize the points of ingress and egress to Ch. Lujuna. In fact, I discussed this option several times with both your realtor as well as with the realtor for your store operator, Mr. Joe Ayuyu. I believe a passageway between our properties, in order for vehicles and customers to conveniently and safely pass between McDonald's and the Yigo Family Plaza, will be in everyone's best interest. Particularly to McDonalds's, you can eliminate the ingress/egress now planned from McDonald's onto Ch. Lujuna.

I hope you agree with the wisdom of this option and agree to meet very soon, so we can finalize how best to provide this feature between our properties.

Sincerely,

Kevin J. Yang Vice President

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YSENGSONG, INC.

Mr. P. Sonny Ada President Ada's Trust and Investment, Inc. P.O. Box 2889 Hagatna, Guam 96932 December 01, 2017

Hello Mr. Ada,

Last year in August and October my representative, Dan Swavely, contacted you about Yigo Family Plaza, my proposed neighborhood mall located between your Yigo Town Center and Chalan Lujuna. Shortly thereafter, we submitted a rezoning application to GLUC, and that review process will culminate on December 14 when GLUC hears the application.

The reasons for Dan's contact were to inform you about my proposed development before the application was finalized, and to offer the option for a passageway between our properties in order for vehicles and customers to conveniently and safely pass between the Yigo Town Center and the Yigo Family Plaza. Incidentally, we also offered the same option to McDonald's, our new neighbor.

During the GLUC rezoning process, we held two meetings with local residents. At both a private meeting with Perez Acres residents and at the subsequent public hearing at the Yigo Senior Center, we were strongly encouraged to pursue an interconnection among Yigo Town Center, McDonald's and Yigo Family Plaza. We believe that much can be learned from public hearings, particularly when those neighbors will likely be future customers of our respective establishments.

In your last communication on this matter dated October 19, 2016, you reserved decision about linking our properties, but asked to be kept apprised of the rezoning process and final plan.

I hope you will now agree in concept with this option, so we can meet again to discuss how best to provide this feature between our properties.

Sincerely,

Kevin J. Yang Vice President

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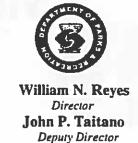
Eddie B. Calvo
Governor
Ray Tenorio
Li. Governor

Department of Parks and Recreation Government of Guam

490 Chalan Palasyo, Agana Heights, Guam 96910 Director's Office: (671) 475-6288 Parks Division: (671) 475-6291

Guam Historic Resources Division: (671) 475-6294/5

Facsimile: (671) 477-2822



In reply refer to: RC 2016-0951

October 31, 2017

Boyd Dixon, Ph.D. Senior Archaeologist Cardno GS Inc. 425 Chalan San Antonio Road, PMB 1004 Tamuning, GU 96913

Subject:

Review of Draft Report Archaeological Reconnaissance Survey of Lot 7 Tract

10417 in Yigo, Guam

Dear Mr. Dixon,

We have concluded our review of subject report and agree with your finding and recommendations. We have agreed that the shovel tests did not present any cultural materials or deposits and so a monitoring plan will not be necessary. We will require that your client must inform our office of any inadvertent discoveries of historic properties during clearing and all planned earthmoving activities during this project. Please submit your final report and follow our basic reporting requirements.

Should you have any questions, please do not hesitate to call us.

Sincerely,

William N. Reyo

Director

YIGO MAYOR'S OFFICE "OFFICINAN I TAOTAO"

Rudy M. Matanane, Mayor Anthony P. Sanchez, Vice Mayor



December 7, 2017

John Z. Arroyo
Chairman
DEPARTMENT OF LAND MANAGEMENT
Government of Guam
P.O. Box 2950
Hagatna, Guam 96910

Subject:

Letter of Support on Application 2017-04 to Rezone Lot 7, Tract 10417, Yigo

To Commercial for Yigo Family Plaza

Hafa Adai Chairman Arroyo:

I provided suggestions about this proposed project before the application was submitted and the applicant incorporated my comments. Further, the applicant is taking steps in response to the comments at the public hearing from neighbors and the public in general.

I approve of this development that is good for Yigo and the Yigo Family Plaza as proposed has my support.

Sincerely,

Rudy M. Matanane

Yigo Mayor

Robert Klitzkie, Esq.

22 Baki Ct., Yigo, GU 96929 (671) 653-6607 klitzkie@hotmail.com

December 14, 2017

Honorable members of the Guam Land Use Commission: Chairman John Z. Arroyo, Vice Chairman Victor F. Cruz, Commissioner Conchita D. Bathan, Commissioner, Tae S. Oh, Commissioner Hardy Tan I. Vy

Re: Application to Rezone Lot 7, Tract 10417, Yigo, Application 2017-04

Allowing the building of this project would create a situation fraught with danger. That danger will be fully explained in reason 7. infra.

There are six reasons that this application should not be approved:

1. Kevin J. Yang is not eligible to file an application to change the zoning of the captioned parcel from "A" to "C" because he is not the owner. Eligibility is governed by 21 GCA § 61631 which reads:

§ 61631. Procedure. A proposed change may be initiated by the Commission or by an application directed to the Commission by any **person owning or leasing real property** within the area covered by the zone. [Emphasis supplied.]

The record in this application shows that Y Sengsong, Inc. is the owner not Yang.

2. Notice of the meeting held November 1 was not mailed to all the landowners as required by 21 GCA § 61633¹ which reads:

§ 61633. Hearing Date-Notice. (a) Upon the filing of an application for a change of zone, the Commission shall hold at least one (1) hearing thereon in the municipal district where the property to be rezoned is located, as such districts are described in Chapter 40, 5 GCA Government Operations, and a notice of the time and place of the hearing shall be published in at least one (1) newspaper of general circulation at least ten (10) days before the date of said hearing, and sent by mail to the Mayor of the municipal district concerned, and to those landowners owning land within five hundred (500) feet of the property for which the rezoning is requested, the mailing addresses for such landowners to be in the Real Tax records. [Emphasis supplied.]

The subdivision known as Perez Acres, a horizontal property regime², of which I am a forty-plus years resident, lies partially with 500 foot zone surrounding Lot 7, Tract 10417, Yigo. There are 200 owners in Perez Acres each of whom owns a 1/200th undivided interest in the common area of the subdivision³. The record in this application shows that only 82 notices were mailed in accordance with § 61633. Simple arithmetic, 200-82=118, shows that over 118 Perez Acres owners were not mailed the statutorily required notice. If the Commission proceeds in default of the § 61633 notice requirements it does so at great peril because of the extremely strong language of 21 GCA § 6133 (c) which reads:

- (c) The Commission shall not render a decision in favor of any applicant that fails to comply with both this sign requirement and any other public notice requirement that is prescribed by law, rule or regulation. Failure to meet the notice requirements as provided herein renders any approval by the Commission null and void. [Emphasis supplied.]
- 3. The balance of the equities⁵ favors the Chalan Lujuna neighborhood but disfavors this application. Reasons xthroughx describe the hardships that the Chalan Lujuna neighborhood will suffer if Yang's project is built. Although Chalan Lujuna neighborhood will undergo great inconvenience and be exposed to danger, the shopping center will provided no benefit to the neighborhood. Yang, on the other hand, will enjoy a significant windfall. Land which is zoned "A" sells for much less than that which is zoned "C." Because Lot 7, Tract 10417 is zoned "A," the owner can build one family houses or duplexes which of course could be rented for as much as \$100,000 per annum.

Yang's shopping center will consist of 25,000 square feet of space. Attached is a real estate listing paper showing that retail space in a nearby shopping center went for \$2.00 per square foot a year and a half ago. Do the math: \$2.00 per square foot X 25,000 square feet=\$600,000 per year. If granted, zone "C" provides a great financial gain for Yang for the minimal cost of preparing some papers and bringing this matter before this Commission. A great gain for Yang correlates with at least great inconvenience for the Chalan Lujuna neighborhood. Balance the equities and the hardships and it becomes clear that this application should be denied.⁶

4. Even if Yang's application complied with the jurisdictional requirements of 21 GCA Ch. 6, Art. 6 Subarticle 3, which it doesn't, an examination of the merits of the application shows that it still should not be granted. In order to be meritorious an application for a zone change must meet all three requirements of 21 GCA § 61630 which reads:

§ 61630. Requirements For Changes. The Commission may, with the approval of the Governor, change the zones established under this Chapter whenever it finds that the **public necessity**, **convenience** and **general welfare** justify such action.⁷

ONE AT A TIME: There is **no public necessity** to rezone an agricultural lot to a commercial lot in order to build the shopping center Yang describes in his application. Dr. Tom Rozycki lays it out quite clearly in his well researched letter, which is part of the record in this matter, a copy of which is attached for your easy reference. The key word in Dr. Tom's letter is

ABSURD

"The claim that more commercial space is needed for the residents of Yigo is absurd. There are currently 4 vacant commercial spaces in the Yigo Payless mall less than a half mile away. The Yigo Town Center has 2 empty commercial spaces. It has also seen at least 3 restaurants come and go in the building next to Bank of Guam. The site of those failed restaurants is now where the VFW Post is located after it moved from a nearby building along Route 1; that vacated building stood empty for a considerable period of time before finally being occupied by yet another restaurant. In addition to vacant commercial spaces, there are an ample number of family restaurants, convenience/grocery stores and coffee shops within a mile or so of the proposed plaza." [Emphasis supplied.]

5. Anyone intending in good faith to build a commercial structure in Yigo would naturally gravitate to Marine Corps Drive where there has been an abundance property zoned "C" for over forty years. See 21 GCA § 61208. One would have to concur with Dr. Tom's analysis that idea that there is a public necessity to rezone Lot 7, Tract 10417, Yigo is indeed absurd.

§ 61208. Yigo Commercial Zone. All property lying on either side of Route 1 (Marine Drive) between the Old Marbo PX and the Yigo Catholic Church, to a depth of 200 feet from the edge of the right of way along Route 1, is hereby established as commercial zone property. The Department of Land Management is hereby directed to amend its zoning maps accordingly. SOURCE: GC § 17053.3 enacted by P.L. 12-160.

6. Yang's project fails miserably when it come to the public convenience prong of the statutory requirement of § 61630. In fact, as more fully described infra, Yang's project will visit a great inconvenience on the Chalan Lujuna neighborhood. A commercial ingress/egress onto an already overburdened two lane road to accommodate an unnecessary shopping center is the very essence of a lack of public convenience.

7. The **general welfare** of the neighborhood will be severely impacted if Yang is allowed to build his project. Here's the historical background:

When Perez Acres was built in the early 70's a paved road was constructed from Marine Drive to Paseo Antonio, *i.e.* the entrance to Perez Acres. A temporary primitive gravel road was constructed from that intersection to Rt. 15 to serve as a haul road to bring building materials into the Perez Acres construction site from the companies located on Rt. 15. When the construction of Perez Acres was completed a berm was built across the gravel road closing it to all traffic. In a couple years the boonies reclaimed the road and it was forgotten.

About twenty years ago when Goring Villa Estates was built the scenario was repeated. But this time no berm was built across Chalan Lujuna closing it. Instead the mayor of Yigo, Bob Lizama, took it upon himself to have the road paved! No public notice, hearings, legislation or whatever. The road that Lizama built lacked proper markings and signage. It was just a road and the cause of a multitude of problems. It is still a poor excuse for a road especially considering the amount of heavy duty traffic it handles on a daily basis.

Some points to consider:

- Chalan Lujuna connects Rt. 15 with Marine Corps Drive bearing heavy traffic composed primarily of large construction vehicles, e.g. dump trucks and low boys hauling bulldozers, front end loaders, etc. The stop signs at the junction of Chalan Lujuna and Paseo Antonio, i.e. the entrance to Perez Acres, are routinely ignored.
- The intersection of Marine Corps Drive and Chalan Lujuna is already burdened with traffic exiting the Mobil station directly onto Chalan Lujuna. Shortly, McDonalds will open, exiting onto Chalan Lujuna directly across from the Mobil station. Adding yet a third shopping facility on Chalan Lujuna with no other ingress and egress is a recipe for disaster.
- Congestion and collisions are sure to result as traffic to and from Marine Corps Drive attempts to penetrate traffic flow from the three businesses less than fifty yards from a major intersection.

Back to Dr. Tom again:

"The only sidewalk along Chalan Lujuna is a short section along part of the boundary adjacent to Perez Acres. Otherwise pedestrians face the frightening and dangerous prospect of dodging traffic along the narrow road. We have already seen the tragic death of a Perez Acres resident, a teenage girl who was struck by a vehicle while on the left side of Chalan Lujuna returning to her home."

As can be seen, allowing Yang to build his project is the opposite of furthering the general welfare: it would create a situation fraught with danger.

In closing there are at least six reasons not grant the application. Right now, Lot 7, Tract 10417, Yigo is zoned "A." Here's what that means:

§ 61304. A Rural Zone. (a) Uses permitted: (1) One-family dwellings and duplexes. (2) Farming and fisheries, including all types of activities and pursuits customarily carried on in the field of agriculture and fisheries, including the raising of crops and fruits, poultry and livestock, grazing and dairying, tree and other vegetative production whether for commercial or personal uses.

(3) Cockpits.

(4) Uses customarily accessory to any of the above uses including home occupations, and private auto mobile parking areas as well as accessory buildings and structures such as private garages, warehouses, barns, corrals or other similar structures. [Emphasis supplied.]

Lot 7, Tract 10417, Yigo, is zoned "A." Please let it stay that way. Please for the sake of all of us who live in the neighborhood, those who must drive Chalan Lujuna and for the sake of school children who catch their bus on Chalan Lujuna, deny Application 2017-04

Respectfully submitted,

Robert Klitzkie

A fair reading of the statute suggests that the notice requirements for every Public Hearing, including this one, are mandated.

² See generally 21 GCA CH. 45 HORIZONTALPROPERTY ACT.

³ See 21 GCA § 45106.

⁴ NB because of the verbiage of the statute, "null and void," the failure to comply with the notice requirements is fatal to the application *ab initio*.

⁵ "Equities" here is not used in economic sense but as used in a legal sense, e.g. "Where competing interests are weighed against each other in an effort to determine the most appropriate outcome of a dispute.--Quimby

⁶ The matters set out in Reason 3. are hypothetical and conjectural and are not to be taken as factual representations.

⁷ NB the requirements of § 61630 are in the conjunctive not the disjunctive so failure to meet just one of the requirements means that the Commission would not be justified in approving the application.

Response in objection to application to rezone lot 7, tract 10417, Yigo

For many years Chalan Lujuna was a road which ended near the entrance to Perez Acres. It is a narrow 2 lane road which was adequate to serve its purpose as access for Perez Acres residents to get to Route 1. However, it was eventually paved all the way from Route 1 to Route 15, making it a favored road connecting Route 1 and Route 15 and causing an exponential increase in vehicular traffic, including its use by numerous large trucks. It's not unusual during peak morning hours to have traffic backed up from near the Perez Acres entrance all the way to Route 1.

The only sidewalk along Chalan Lujuna is a short section along part of the boundary adjacent to Perez Acres. Otherwise pedestrians face the frightening and dangerous prospect of dodging traffic along the narrow road. We have already seen the tragic death of a Perez Acres resident, a teenage girl who was struck by a vehicle while on the left side of Chalan Lujana returning to her home.

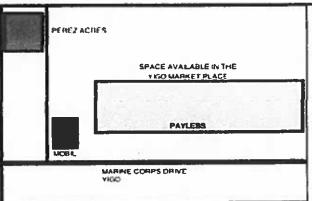
The rezoning proposal for Guam Family Plaza includes an access road from Chalan Lujuna into the Plaza with links to the adjacent Yigo Town Center and to the McDonald's currently under construction. This will cause a further increase in traffic on the already overloaded Chalan Lujuna and will exacerbate the danger to pedestrians.

The claim that more commercial space is needed for the residents of Yigo is absurd. There are currently 4 vacant commercial spaces in the Yigo Payless mall less than a half mile away. The Yigo Town Center has 2 empty commercial spaces. It has also seen at least 3 restaurants come and go in the building next to Bank of Guam. The site of those failed restaurants is now where the VFW Post is located after it moved from a nearby building along Route 1; that vacated building stood empty for a considerable period of time before finally being occupied by yet another restaurant. In addition to vacant commercial spaces, there are an ample number of family restaurants, convenience/grocery stores and coffee shops within a mile or so of the proposed plaza.

I am strongly opposed to the rezoning proposal for lot 7, tract 10417.

Thomas Rozycki, M.D.





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1 Mo - 50/50

09/30/2016 **Under Contract Date** 09/14/2016 Sold Date Terms of Sale 5 year lease 3,200.00 Sold Price Location

96929 **Postal Code** Village Yigo Yigo Market Place Marine Corps **Building Name** Street Name State/Province Guam 111/112 Apt/Unit #

Property Description

Realtor.com Type Commercial Style Retail Space Stories Zoning Commercial Rental Living Area SqFt 1600 **Book Section** Access Paved Year Built 1999 Flood Zone UNKNOWN Condition Very Good SqFt Source of Info Not in List **Ownership** Fee Simple Floor 1

Taxes & Legal

L7024-1-NEW-1-2 YIGO Legal

Remarks

Public Remarks LOOK NO FURTHER! TWO 800 s.f. spaces directly next to PAYLESS SUPERMARKET. Winner location for the business who benefits from the constant flow of customers making their way to the market.

ATTACHMENT B



EDDIE BAZA CALVO

Lieutenant Governor

Governor

RAY TENORIO

DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÅHAN (Government of Guam)



MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

Street Address: 590 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

> Mailing Address: P.O. Box 2950 Hagåtña, GU 96932

> > Website: //dlm.guam.gov

December 4, 2017

MEMORANDUM

TO:

Chairman, Guam Land Use Commission

FROM:

Guam Chief Planner

SUBJECT:

Commission Brief - Tentative Subdivision on Lot R4, Tract 93021,

Municipality of Yigo, Application No. 2015-38

E-mail Address: dlmdir@land.guam.gov

1. PURPOSE:

a. Application Summary: The applicant, Richland Development, LLC represented by Mr. Jae S. Ji, Request for Extension of Time of an Approved Tentative Subdivision on Lot R4, Tract 93021, in the Municipality of Yigo.

b. Legal Authority: Title 21, GCA, Chapter 62, Article 2, Section 62201 thru 62204; Article 4, Section 62401; Article 5, Section 62501 thru 62504, Subdivision Law.

Telephone: 671-649-LAND (5263)

Facsimile: 671-649-5383

2. <u>DISCUSSION:</u>

As conditionally approved by the Commission on October 27, 2016, the subject application is a Tentative Subdivision Application to create a subdivision consisting of Ten (10) Single Family residential Lots.

As noted on the attached request package, the applicant is requesting for an Extension of Time pursuant to Section 62504 (Time Allowed for Completion of Improvements) of the Subdivision Law where it states "Upon approval of the tentative subdivision plan by the Commission, the subdivider shall complete within one (1) year all of the improvements required, except that the Commission, for good cause shown, may authorize an extension of time, not to exceed twelve (12) months, for such completion. Within such time, the subdivider must either:



Continuation of Supplemental Staff Report

Re: Application No. 2015-38 Date: December 4, 2017

Page 2 of 2

- (a) Complete the required improvements and, upon acceptance thereof by the Government, file his final plans; or
- (b) Furnish bond acceptable to the Commission for the completion of improvements, the bond to be in penal sum of one hundred fifteen percent (115%) of total work costs as verified by the Director of Public Works. On approval of the bond, the final plans may be filed."

3. **RECOMMENDATION:**

Considering that the applicant has been, and continues to consult and coordinate with the Govguam permitting entities involved to address their permitting conditions/requirements for the approved Tentative Subdivision, planning staff recommends Approval with the condition that the applicant continue to adhere to the condition of the October 27, 2016 Commission approval.

Marvin Q Aguilar

ATTACHMENT:

1. Request Package

Case Planner: Frank Taitano

Studio C Development....

DATE:

November 09, 2017

INSTRUMENT NUMBER: NOA 900084

DPW PERMIT NUMBER: B170007-70

ATTENTION:

Mr. John Z. Arroyo, Chairman

GUAM LAND USE COMMISSION

C/O PLANNING DIVISION, DEPARTMENT OF LAND MANAGEMENT

GOVERNMENT OF GUAM, HAGATNA, GUAM 96932

PROJECT:

NOTICE OF ACTION for RICHLAND DEVELOPMEN

LOT R4, TRACT 93021, 10 - SINGLE FAMILY HOUSING UNIT SUBLE

DIVISION, YIGO, GUAM

SUBJECT:

REQUEST FOR A ONE (1) YEAR EXTENSION FOR AN APPROVED TENTATIVE

SUBDIVISION FOR PERMITTING EXTENSION FOR LOT R4, TRACT 93021, YIGO

GUAM; EXPIRATION OF TIME on NOA: NOVEMBER 21, 2017.

Dear Mr. Arroyo,

We will like to take this time to give you an update on the project referenced above. Since the issuance of the Notice of Action, we have completed the Permit Set of Construction Drawings and have applied for a full Building Permit (B17000770) as of August 11, 2017. Since then we have been obtaining the clearances for all of the Government of Guam Agencies.

There are several agencies that are still pending: Guam Environmental Protection agency (GEPA) and Department of Agriculture. We are very close to obtaining GEPA and have been working with them for the past 3 months. Department of Agriculture has a new requirement that we will are addressing.

We have been working with the Department of Public Works (DPW) Highway Division to obtain the Highway Encroachment Permit (HEP). Then, after all of the above reviews and approvals, we will work through the DPW Design Analysis which will take less than a week. Unfortunately, we are unable to meet the time allowed for us to obtain the Overall Building Permit.

We are asking for a Notice of Action Extension of one (1) year, to properly obtain the Building Permit, install all infrastructure and build the road for this project. We feel that this will be sufficient enough time to complete the work and file for Final Subdivision.

If there are any question or inquiries, please feel free to contact us at you convenience. Again thank you for your time and immediate attention.

SINCERELY,

JAE JI, Project Manager

Attachments: Copy of the Notice of Action, Permit Application, Department of Agriculture Biological Survey Letter

Studio e Development.....

DATE:

November 07, 2017

INSTRUMENT NUMBER: 900084

Land Plum PW

ATTENTION:

Mr. Michael J. B. Borja, Executive Secretary

GUAM LAND USE COMMISSION

C/O PLANNING DIVISION, DEPARTMENT OF LAND MANAGEMENT

GOVERNMENT OF GUAM, HAGATNA, GUAM 96932

PROJECT:

NOTICE OF ACTION for RICHLAND DEVELOPMENT

LOT R4, TRACT 93021, 10 - SINGLE FAMILY HOUSING UNIT SUB-

DIVISION, YIGO, GUAM

SUBJECT:

PERMITTING EXTENSION FOR CONSTRUCTION DRAWINGS AS PER INSTRUMENT

NUMBER 900084; EXPIRATION OF PERMIT TIME on NOA: NOVEMBER 21, 2017.

Dear Mr. Borja,

We will like to take this time to give you an update on the project referenced above. Since the issuance of the Notice of Action, we have completed the Permit Set of Construction Drawings and have applied for a full Building Permit (B17000770) as of August 11, 2017. Since then we have been obtaining the clearances for all of the Government of Guam Agencies.

There are several agencies that are still pending: Guam Environmental Protection agency (GEPA) and Department of Agriculture. We are very close to obtaining GEPA and have been working with them for the past 3 months. Department of Agriculture has a new requirement that we will are addressing.

We have been working with the Department of Public Works (DPW) Highway Division to obtain the Highway Encroachment Permit (HEP). Then, after all of the above reviews and approvals, we will work through the DPW Design Analysis which will take less than a week. Unfortunately, we are unable to meet the time allowed for us to obtain the Overall Building Permit.

We are asking for a Notice of Action Extension of three months to properly obtain the Building permit for this project. We feel that this will be sufficient enough time to obtain a Building Permit.

If there are any question or inquiries, please feel free to contact us at you convenience. Again thank you for your time and immediate attention.

SINCERELY,

JAE JI, Project Manager

Attachments: Copy of the Notice of Action, Permit Application, Department of Agriculture Biological Survey Letter

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File for Record is Instrument No. 900084
84: Olemin 12 ved 1/ unich 1/ Day 21 Timelo: 48
lecording Fa 9E- OFFICIO Raceipt No
Deputy Recorder_ W to
(Space above for Recordation)
IMPORTANT NOTICE - READ CAREFULLY
"Pursuant to Section 5 of Executive Order 96-26, the applicant must apply for and receive a building or grading permit for the approved GLUC/GSPC project within one (1) year of the date of Recordation of this Notice of Action, otherwise, the approval of the project as granted by the Commission shall expire. This requirement shall not apply for application for Zone Change***."
GUAM LAND USE COMMISSION Department of Land Management Government of Guam P.O. Box 2950 Hagatña, Guam 96932
NOTICE OF ACTION
October 28, 2016 Date
To: Richland Development, LLC c/o Jae S. Ji Unit 101, Photo Town Building 353 Chalan San Antonio Tamuning, Guam 96921 Application No. 2015-38 Application No. 2015-38 Application No. 2015-38
The Guam Land Use Commission, at its meeting on October 27, 2016.
/ Approved/ Disapproved XX/ Approved with Conditions
/ Tabled

Your request on Lot R4, Tract 93021, Municipality of Yigo for a:

NOTICE OF ACTION
Richland Development, LLC
Lot R4, Tract 93021, Municipality of Yigo
GLUC Meeting of October 27, 2016
Page 2 of 4

Application No. 2015-38

ZONING	SUBDIVISION
/ Zone Change***	XX/ Tentative Subdivision
/ Conditional Use	/ Final
/ Zone Variance [] Height [] Use [] Density [] Other (Sp. [] Setback TENTATIVE DEVELOPMENT PLAN	ecify) PL 28-126, SECTION 1(A)
***Approval by the Guam Land Use Comr	on zone change mission of a zone change description to the Governor for his approval. Applicant shall vernor. [Reference 21 GCA (Real Property), Chapter y the Commission).]
SEASHORE	
SEASHORE	HORIZONTAL PROPERTY REGIME
/ Wetland Permit	/ Preliminary
/ Seashore Clearance	/ Final
	/ Supplementary (Specify)
MISCELLANEOUS	
/ Determination of Policy and/or Definitions	
/ Other (Specify)	900034

NOTICE OF ACTION Richland Development, LLC Lot R4, Tract 93021, Municipality of Yigo GLUC Meeting of October 27, 2016 Page 3 of 4

Application No. 2015-38

APPLICATION DESCRIPTION: The applicant, Richland Development, LLC represented by Mr. Jae S. Ji is requesting approval of a Tentative Subdivision to create a subdivision consisting of Ten (10) Single Family residential Lots on Lot R4, Tract 93021 in the Municipality of Yigo.

COMMISSION DECISION: The Guam Land Use Commission Approved the applicant's request subject to the following condition;

1. The applicant, adhere to the ARC conditions and requirements as stipulated on their official Position Statement:

Marvin Q. Aquilar Guam Chief Planner

Chairman

Guam Land Use Commission

Case Planner Frank P Tailand

Cal Building Permits Section, DPW

NOTICE OF ACTION
Richland Development, LLC
Lot R4, Tract 93021, Municipality of Yigo
GLUC Meeting of October 27, 2016
Page 4 of 4

Application No. 2015-38

CERTIFICATION OF UNDERSTANDING

(Amelian et CD)						
(Applicant [Please print name	e])	(Rep	resentative [P	lease print	name])	
Understand that pursuant to building or grading permit me project within one (1) year Action, otherwise, the appropriation of the state	of the o	btained late of	for the appreciation	proved (GLUC/G	SPC
Commission shall expire.				3,141,11	ou by	- 1110
The Commission may grant approval period at the time of	t two (2 initial ar) one-y oproval.	ear extens	ions of	the ab	ove
This requirement shall not apply	/ for appli	cation fo	or a Zone Ch	ange***		
Action and further AGREE and ACCE Action and further AGREE TO A attached to this Notice of Action as Commission or from the Guam Sea	any and mandated	ALL C	ONDITIONS approval from	made a	and of	المصم
Signature of Applicant Date		Signat	ure of Repres	sentative		b
ONE (1) COPY OF RECOR	RDED NOT	CE OF A	ACTION RECE	IVED BY:	-	_
Applicant D	ate	Repres	le Fry Esentative)	Date	





BUILDING INSPECTION & PERMITS SECTION APPLICATION FOR PERMIT

		Apprention Number
MPORTANT, Applicant must complete	lete all items in sections 1, II, III, IV	Permit Number ST 1000770
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Location VICTORY	PARK REFINENCE	PARK RETIDENCES GAYINERO DOAD JUMINION DEL
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II. TYPE AND COST OF BUILDING	SYNCONDERK RESIDENCE	101 724 Block - Let Size 4502
A. Type of Building	Оквир Октиранку	y Fype of Construction Feature of Control and Control
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Shell Only	□ Adel	Recordingled
Fence Wall	C Alter	Reterrated
B. Ownership		
Private (individual, corporation, non profit institution, etc.)	. Does profit institution, etc.)	Public (Federal, State, or Local Government)
C. COST		SCOPE OF WORK
Cost of Improvements	187,000	NOA 1700: 400 084 APP# 2015-38
electrical		
plumbng		FORMALLY RICHLAND DEVELOPITE,
other (efevalor, etc.).		E STATE OF THE STA
FOTAL COST OF IMPROVEMENT	MENT 5 187,000	CLEAPING & FRANKUTHES)
D. PROPOSED USE Residential		Non-Residential
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With the share families	Carage -	Church other religious
Enter No of Units	Carport	[] fortustrial
Transient hotel, motel,	Other (specify)	Parking garuge
or dorentory	of states of sta	Service station, repair garage

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10/25/7 Nixon N. Sec. 10/25/1/7 1/25/1/	
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	Approved Valuation of 197,000
Building Permit Issued	Plan Checking Fee 6 664 50 00 Recall
Approved By Build	Building Permit Fee # 1, 430 00
Title	Total (2, 1014 5.0)



Ray Tenorio Lt. Governor

Department of Agriculture Dipåttamenton Agrikottura

Director's Office Agricultural Development Services Plant Nursery Aquatic & Wildlife Resources Forestry & Soil Resources Plant Inspection Station Animal Health

300-7970 / 7969 / 7966 300-7973 / 7972 / 7967 300-7974 735-3955/56; Fax 734-6570 300-7975/6 475-1426/27; Fax 477-9487 300-7965 Fax 734-6569



Matthew L.G. Sablan Director

Jessie B. Palican Deputy Director

September 29, 2017 Memorandum

To:

Victory Inc. c/o Studio E. Development

From:

Director

Subject:

Application for a Permit & Plan Review for a "Building Permit" or "Clearing and

Grading Permit" for application B17000770 on lot R4 Located on Chalan Gayinero

Yigo.

Based on preliminary inspection of this lot(s) our agency can not approve or sign off on the permit application until a "Biological Survey" has been performed on the lot(s).

The Biological Survey must be done by a licensed and approved Biological Consultant familiar with identification, monitoring and handling of Federally Listed Endangered Species. The Federal government has listed several species only found on Guam on the above mentioned list and as such it is required that no destruction of those species is to occur. Any such destruction will result in fines of \$35,000 per individual plant or animal affected. Once the survey has been completed and determined if any of those species are present or not present on the lot(s) our agency will work with the consultant and the US Fish and Wildlife Service to proceed with the next step in any mitigation measures that need to be part of the project before any action is taken on the property.

There are several Consultants that can perform and produce both the proper Wetland and Biological surveys and are familiar with the scope of work that needs to be performed and the requirements that must be in place to further the application. ARC Environmental (Joe Sablan) 969-6723/482-6088, Duenas, Camacho, Bordallo and Associates at 477-7991/97 (Claudine Camacho) are two that have completed these surveys and are familiar with the requirements needed to progress. A listing can also be found in the Guam Phone Book for other consultants. All these consultants again must be versed in the scope of work that is needed.

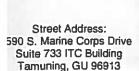
MATTHEW L.G. SABLAN

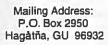
Director

PECENED 10/26/17 HANA 00 OFD

HYBRID LAND USE COMMISSION

MCoG DLM 2018-01
Application No. 2017-25
ATTACHMENT A
EXHIBITS







E-mail Address: dlmdir@land.guam.gov

Telephone: 671-649-LAND (5263)





ATTACHMENT A [MCoG DLM 2018-01]

DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÅHAN (Government of Guam)



MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

EDDIE BAZA CALVO Governor RAY TENORIO Lieutenant Governor

December 7, 2017

MEMORANDUM

TO: Chairman, Hybrid Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Supplementary Report

Application No. 2017 - 25HC

Variance - Height

Lot 5147-3-3NEW-6, Municipality of Tamuning

Authority: Title 21, GCA (Real Property), Chapter 61 (Zoning Law), Sections 61617-61624.

Discussion: The following report is a supplemental response to the Guam Land Use Commission (Commission) order to continue its review of the above-described variance request as submitted by LZ Company. At its re-scheduled meeting of November 28, 2017, the Commission withheld further any action the applicant's request to allow a twenty-six (26) unit condominium/apartment complex with 20,000 square feet of commercial space to exceed the minimum structural height requirement of thirty (30) feet to sixty-four (64) feet or six (6) floors.

The purpose of the continuance was to allow the Commission to consider certain documents necessary to complete its final assessment of the project. This included:

- Written status report for the commencement of road improvement work on Route 14B by the Director of the Department of Public Works. In response to the Commission's request, the Department of Land Management issued a request for response to the Director of the Department of Public Works (DPW). (See Attachment 1). As of date of preparation of this report we anticipate DPW's response.
- 2. Clarification as whether the "two municipal public hearing-requirement" as provided in Public Law 129-33 serves as a mandatory caveat before the Commission can take any action on a requested variance. Staff met with legal counsel regarding this matter and had confirmed the responses from MPCs are tools of assessment, thus responses such as an MPC resolution is not a mandatory item needed prior to considering action on a land use project.

- 3. A request for the Tamuning MPC to submit its official resolution pursuant to P.L. 129-33. (See Attachment 2). As of the date of this report, Planning Division has not received a resolution of the Tamuning MPC.
- 4. Need for the applicant to strengthen responses as provided by the application pursuant to \$61617(a) (1) through (5). The applicant provides his response (See Attachment 3).

Relative to conditions as recommended to the Commission, the applicant expressed his concern over Condition No. E.3 in our staff report dated November 22, 2017 which states, "The applicant shall accept a "No Occupancy Permit" agreement with the Department of Public Work's Building Permit Administrator until highway improvements to Route 14B are in place. Appropriate infrastructure and use thereof, must in place to include but not limited to road improvements to Route 14B, water, power, public sewer services and serviceable to the extent of avoiding any potential adverse impacts to the surrounding community". In this respect, the applicant cited the fact that although a firm start date for road improvements to Ypao Road has been affirmed by both Director of DPW and the Mayor of Tamuning, there is no firm date for the completion of such improvements. Thus, a "no occupancy permit" clause as a condition may jeopardize the project as it may be forced to keep its doors closed even if completed until the road is improved. He further noted trickling effects such as repayment of loans where funding of such will be dependent on public opening of services.

We agree with the applicant's concerns and recommend Condition No. E.3 be amended in a manner that remains to assert alignment of the start date of both road improvements and project construction without causing further unnecessary burden to both applicant or the public.

Marvin Q. Aguilar

Case Planner: Frank P. Taitano

NOTHING FOLLOWS ON THIS PAGE



DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUĀHAN (Government of Guam)



Street Address: 590 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

RAY TENORIO Lieutenant Governor MICHAEL J.B. BORJA

DAVID V. CAMACHO De uty Director

December 4, 2017

MEMORANDUM

TO:

Director, Department of Public Works

FROM: Director, Department of Land Management

RE:

Request for Written Status of Route 14B (Ypao Road)

Buenas Yan Hafa Adai!

On November 28, 2017, the Guam Land Use Commission convened, with a supplement of four mayors, a "hybrid" commission to review an application with a project cost exceeding \$3M. The Commission entertained a height-variance application request for Lot 5147-3, Municipality of Tamuning, for a 6-story building intended to support medical specialty services and residential apartments. This lot is immediately adjacent to Route 14B, Ypao Road, near the SDA Medical Clinic.

A prime issue raised at the public hearing for this project and by the commissioners, as well, was the requisite for Route 148, Ypao Road, expansion and improvement prior to any development along that corridor. After deliberation on this matter, the Commission acted to withhold action on the variance application request pending a written statement from your office regarding the Route 14B work project to include date of commencement, expected completion, and project objectives (e.g. infrastructure upgrades). The Commission will use your response to render a decision on the applicant's development plans.

The next Commission will be on December 14, 2017, with the intent on issuing a response to the height-variance application along Route 14B. I would greatly appreciate your status report on Route 148 prior to that meeting.

Should you need further clarification on this matter lease feel free to our Chief Planner at 649-5263, Ext. 300.

Senseramente,

Director

Website: http://land.guam.gov

Mailing Address: P.O. Box 2950

Hagátña, GU 96932

E-mail Address: dlmdir@land.guam.gov

Telephone: 671-649-LAND (5263)

> Facsimile: 671-649-5383





DIPĀTTAMENTON MINANEHAN TĀNO' (Department of Land Management) GUBETNAMENTON GUĀHAN (Government of Guam)



Street Address: 30 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

EDDIE BAZA CALVO Governor

RAY TENORIO Lieutenant Governor MICHAEL J.B. BORJA Director

DAVID V. CAMACHO **Deputy Director**

December 4, 2017

Honorable Mayor Louise C. Rivera P.O. Box 786

Mailing Address: P.O. Box 2950 Hagátňa, GU 96932

Vebsite: http://land.quam.gov

E-mail Address: dlmdir@land.quam.gov

Telephone: 671-649-LAND (5263)



671-649-5383



Hagatna, GU 96932

RE: Request for Municipal Planning Council (MPC) Resolution

Buenas Yan Hafa Adai!

On November 28, 2017, the Guam Land Use Commission convened, with a supplement of four mayors, a "hybrid" commission to review an application with a project cost exceeding \$3M. The Commission entertained a height-variance application request for Lot 5147-3, Municipality of Tamuning, for a 6-story building intended to support medical specialty services and residential apartments. This lot is immediately adjacent to Route 14B, Ypao Road, near the SDA Medical Clinic.

A prime issue raised at the public hearing for this project and by the commissioners, as well, was the requisite for Route 14B, Ypao Road, expansion and improvement prior to any development along that corridor. At the meeting, you noted the Director of the Department of Public Works provided you with a timeframe for the commencement of repairs to the road.

Based on this information, I respectfully request a copy of your MPC Resolution, hopeful of this latest development in the matter to be included, therein.

The next Commission will be on December 14, 2017, with the intent on issuing a response to the height-variance application along Route 14B. The Commission is seeks to include your resolution as part of the overall assessment packet. Any effort on your part to expedite this matter will be most appreciated.

Should you need further clarification on this matter lease feel free to our Chief Planner at 649-5263, Ext. 300.

Senseramente,

Director

Date Received

DEC 0 4 2017

Tamuning-Tumon-Harm Mayor's Office

4. JUSTIFICATION:

- a. Strick application of Section 61617.21 GCA will result in practical difficulties and unnecessary hardship in consistent with the general purpose and intent of the law. The law only allows a development of up to 30 feet or 3-stories in height. If we follow this requirement a commission approval will not be necessary. We will also be able to utilize the maximum allowed density of 32 units with clinic uses. However, because the property is long and narrow, design options are limited, particularly if you wish to provide safe movement in and out of the property. We not only want to have better circulation, but we also want to use a design that provides more open space to allow more parking and landscaping. This can only be done by using a smaller building footprint. According to the Chief Planner, this is also in line with future master plans for the north. Property is long and narrow in shape creating practical difficulties for development of a 20,000 square feet medical facility and 26 accommodating hotel/condo units with adequate utilities infrastructure and ample parking spaces. Granting of these variances will secure an appropriate building in keeping with the general welfare of tenants, customers and the adjacent neighbors appropriate infrastructure and parking requirements.
- that do not apply to the same use for other properties in the same zone.

 There are few raw land properties available in Tamuning that will allow us to follow necessary build-out requirements for a combine use building. There are even less land areas available where clinics can be near each other that could complement each other, which has proven as an added convenience to patients. By choosing this property we found it to be best suited for a specialty medical clinic serving the local and off-island patients with accommodating
- an added convenience to patients. By choosing this property we found it to be best suited for a specialty medical clinic serving the local and off-island patients with accommodating hotel/condo facility. The property is located along Ypao Road which is the center of the commercial district but surrounded with residences. It is few steps away from SDA Clinic and minutes away from Airport and is also only two miles away from the Guam Memorial Hospital. Therefore, we strongly believe this location is the prime site for our development.
- c. The granting of these variances will not be materially detrimental to the public welfare or injurious to the property and improvements in the neighborhood. The granting of a variance for height will not be materially detrimental to the public welfare or injurious to the property and improvements in the neighborhood because we intended for a design to allow for more open space. By constructing a taller building, we will be able to achieve certain benefits of scale with mixed use. We anticipate following smart development practices as suggested by the Chief Planner. By doing so, our final design will be able to provide more space for landscaping while exceeding parking space requirements. The property allows for a unit density of 32 residential units. However, our design will only accommodate 81% of this allowed density and even this amount will take up a significant

amount of ground area leaving limited space to exercise the recommendations of smart development.

- d. The granting of these variances will not be contrary to the objective of any part of Guahan Master Plan adopted by the commission or legislature. According to the Planning Division the use of a clinic and multi-family development is permitted in an "R-2" and therefore the granting of these variances will not be contrary to the objective of any part of Guahan Master Plan adopted by the commission or legislature.
- e. The proposed building will substantially enhance the recreational, aesthetic and commercial value of the beach area, and such building will not affect the surrounding property owners' or the public's right to an untrammeled use of the beach and its natural beauty. The building will not affect public right and use of the beach since the property is located over ½ mile away from the nearest beach area.

Director, Department of Land Management Executive Secretary

Guam Land Use Commission Government of Guam

Subj: Justification

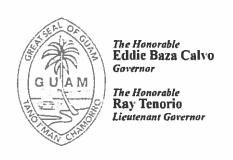
Zone Variance Application for Height and Uses Lot 5147-3-3NEW-6, Tamuning,

Buenas,

We are resubmitting the Justification portion of the application as requested by the Guam Land Use Commission per hearing conducted 11/28/2017. We hope this would provide more detailed and reasonable justifications for the Commission to render a favorable decision.

Sincerely,

Mark Zhao Managing Director LZ Company





Andrew S. Leon Guerrero
Deputy Director

DEC 13 RECT 2018

MEMORANDUM

TO:

Michael J.B. Borja, Director, and Department of Land Management

FROM:

Glenn Leon Guerrero, Director

RE:

Route 14B (Ypao Road) Reconstruction and Widening

GU-NH-014B(001)

Status of Route 14B (Ypao) project

This is in response to The Department of Land Management memorandum dated December 4, 2017 regarding the status of the Route 14B (Ypao Road) project.

The Department of Public Works (DPW) is currently working on finishing up the Right-of-Way purchases necessary for the reconstruction of Ypao Road and is at time of this memorandum about 80% completed.

DPW anticipates that the Invitation for Bids to construct the project will be issued in June 2018 and construction to begin six to eight months later once the contract has been fully executed and the building permit completed. The construction phase is anticipated to last for approximatly one and half year once Notice to Proceed has been issued to the awarded contractor.

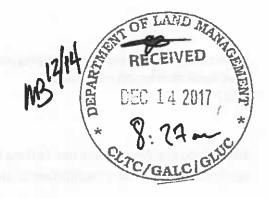
The project will include reconstruction and widening of Route 14B (Ypao Road). The new roadway will consist of two (2) 14 foot wide shared-use lanes and a center turing lane. The 14 foot lanes will provide accomidation for bikes along the roadway. Curb, sidewalk and drainage improvemts will also be included.

Should you have any questions or need additional information please contact, Mr. Joaquin R. Blaz, Acting Program Administrator, Highways Division at 646-3128.

Sincerely,

glédn Leon guerrero





TAMUNING-TUMON-HARMON MUNICIPAL PLANNING COUNCIL

RESOLUTION NO. 2017-002

Introduced By:

Mayor Louise C. Rivera

Vice-Mayor Kenneth C. Santos

Javier Atalig

John Brown

John Camacho Vince Camacho

Leo Casil

Antonio Charfauros

Concepcion Duenas

Jacinto R. Estella Jr.

Michael Lasiste

Rosanne Lastimoza

William Nault

Gregory Perez

Robert Perron

Faustino Punzalan

Ronald Taitano

Danilo V.A. Tinsay

A RESOLUTION OF THE TAMUNING TUMON HARMON MUNICIPAL PLANNING COUNCIL, TERRITORY OF GUAM, RELATIVE TO THE APPLICATION NO. 2017-25, ZONE VARIANCE FOR HEIGHT AND USE ON LOT 5147-3-3NEW-6, IN THE MUNICIPALITY OF TAMUNING.

WHEREAS, the Tamuning, Tumon and Harmon Municipal Planning Council ("TaTuHa MPC") met at its regular monthly meeting on the 5th day of October 2017; and

WHEREAS, on September 26, 2017, the Guam Department of Land Management held a public hearing relative to the Application for a zone variance for height and use on Lot 5147-3-3NEW-6; and

WHEREAS, testimony provided by the residents of Ypao Road expressed concerns over the increase in traffic in an area not designed to handle the current traffic capacity it currently experiences; and

WHEREAS, the residents of Ypao Road further expressed concerns over the increase in the population in an already densely populated area with limited water and wastewater infrastructure to handle even the current residents of the Ypao Road; and

WHEREAS, the residents of Ypao Road further expressed concerns with the increase in crime perpetrated in the area that coincides with the increase in the various types of developments in the area;

WHEREAS, the residents of Ypao Road requests that government of Guam disapprove the application in light of the impact to the quality of life of the community and residents and until such time Government of Guam completes the improvement promised on Ypao Road, and the infrastructure repaired or improved to service any further development; and

A RESOLUTION OF THE TAMUNING TUMON HARMON MUNICIPAL PLANNING COUNCIL, TERRITORY OF GUAM, OPPOSITION to GLUC Application No.2017-25 LZ Plaza

Page 2

WHEREAS, the Mayor and the TaTuHa MPC has also received public comment and written opposition to the application, expressing disapproval of the application; and

WHEREAS, Mayor Louise C. Rivera, Chairwoman of the MPC presented a Guam Land Use Commission Application No. 2017-25 for LZ Company Zone Variance for Height and Use on Lot 5147-3-3NEW-6 in the Municipality of Tamuning for the MPC to review and discuss; and

WHEREAS, the TaTuHa MPC addressed the matter and took the comments from the residents of Ypao Road under advisement; and

WHEREAS, the Municipal Planning Council voted to disapprove the zone variance application until such time that improvements on Ypao Road are completed before pledging any support for any future development plans or legislation related further development to the areas in and around Ypao Road.

NOW THEREFORE BE IT RESOLVED that the Tamuning Tumon Harmon Municipal Planning Council at its regular monthly meeting held on the 5th day of October, 2017, with a unanimous vote (one abstention) to disapprove this application, hereby expressly states that until such time that Ypao Road is improved, the Tamuning Tumon Harmon Municipal Planning Council *cannot support any new development*.

BE IT FURTHER RESOLVED that after considering the adverse effects to the residents of Ypao Road, Tamuning, the Tamuning-Tumon and Harmon Municipal Planning Council hereby resolves and reaffirms its OPPOSITION to any and all requests made with development on Ypao Road as expressed in its motion passed on October 5, 2017 and reaffirmed at its December 6, 2017 Municipal Planning Council meeting, and further respectfully requests that Mayor Louise C. Rivera transmit a true and correct copy of this Resolution to Mr. Michael Borja, Director of the Department of Land Management and Mr. John Arroyo, Chairman of the Guam Land Use Commission.

CERTIFIED BY:

MAYOR LOUISE C. RIVERA

Chairperson

ATTESTED BY:

DANILO V.A. TINSAY

Secretary

HYBRID LAND USE COMMISSION

MCoG DLM 2018-02
Application No. 2017-39
ATTACHMENT B
EXHIBITS

Street Address: 590 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

Mailing Address: P.O. Box 2950 Hagátña, GU 96932

Website: http://dlm.guam.gov

E-mail Address: dlmdir@land.guam.gov

Telephone: 671-649-LAND (5263)

> Facsimile: 671-649-5383



ATTACHMENT B [MCoG DLM 2018-02]

DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUĀHAN (Government of Guam)





MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

EDDIE BAZA CALVO Governor

RAY TENORIO Lieutenant Governor

December 7, 2017

MEMORANDUM

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2017-39

Conditional Use Application

Lot No. 1-R3, Tract 1541, Municipality of Mangilao

PURPOSE:

- A. Application Summary: The applicant, LG CNS America, LLC, represented by TG Engineers is requesting approval of their Conditional Use Application to construct and operate a Solar Photovoltaic Facility and Renewable Integration Energy Storage System on Lot No. 1-R3, Tract 1541, Municipality of Mangilao
- Legal Authority: Title 21, GCA (Real Property), Chapter 61 (Zoning B. Law) and Section 61303 (Conditional Use)

2. **FACTS:**

- A. Location: The property is located in Sasajyan, Mangilao. Access to the property if from off Route 15 to Marbo Cave Road. See Attachment 1.
- B. 300 Acres or 1,118,047 Square Meters or 12,034,506 Square Feet.
- C. Present Zoning: "A" (Rural) Zone
- Field Description: Lot 1, Tract 1541 is currently vacant and D. undeveloped.
- E. Masterplan: "A" Rural/Agricultural Zone.

- F. Community Design Plan: Very Low Density Residential and Residential.
- G. Previous Commission Action: The Territorial Land Use Commission approved a zone change from "A" Agricultural to "PUD" Planned Unit Development in late 1989 to early 1990. Then, in 2006, the Guam Land Use Commission approved a zone change from "PUD' to "A".

3. APPLICATION CHRONOLOGICAL FACTS:

A. Date Application Accepted: July 14, 2017

B. Date Heard By ARC: August 3, 2017

C. Public Hearing Results: The public hearing was conducted at the Mangilao Mayor's Office on November 7, 2017 at 6:00 PM. Present were the applicant's, their representatives Joaquin Flores and Tor Gudmundsen of TG Engineers, Mayor Allan Ungacta, planning staff and approximately fifty concerned citizens.

The main topics of discussion at the public hearing were focused on the impacts public health/safety and the infrastructure in the area. Public hearing results are submitted as **Attachment 2**.

In response to the public hearing, testimonies were submitted for the record and are included as attachments to this staff report.

4. STAFF ANALYSIS:

At the onset of the application process, the owners of Lot 1, Tract 1541 in Mangilao intended to parcel the property. The parceling was intended to sever the property which contains the Marbo Base Command Sewage Disposal Area (Parcel C) as well as to address the access to other reservations/easements within basic Lot 1. As a result, the requested Conditional Use will be primarily located on Lot 1-R3, Tract 1541, Mangilao. (See attached map 252FY2017.)

Pursuant to Section 61304(b),(8) of the Zoning Code as a conditional use in an "A" (Rural) zone and as specified by Section 61303 of the Zoning Code, is a specific use permitted upon approval by the Commission of the site plan, including but not limited to, disposal of sewage, access, parking, structural location and dimensions of buildings, impact of the proposed use on adjacent land uses and accompanying covenants that may include performance standards. The Commission shall also consider such other elements as may be reasonably related to the health, safety and general welfare of the community. With this in mind, we provide the following:

SITE PLAN

Site selection was based on lot features with desirable/key elements which include the more than 276 acres of land available as open space for development. The site plan has been developed to minimize the size and avoid historic sites as well as maximize the setback from the shoreline marine environment. The site is accessible using available paved roads and legal rights-of-ways. Storm water runoff flow patterns are maintained in the current direction toward the existing cliff/eastern coast of Guam and engineering designs to manage the quality and flow rates will follow best management practices as well as local regulation.

The Environmental and Biological Surveys as provided include an array layout developed to avoid sensitive areas for archaeological, environmental, biological resources. The intent is to avoid impacts to sensitive areas. The site plan as presented at the ARC Technical Meeting on August 3, 2017, received no technical recommendations by the members as of the date of this report and therefore remains unchanged, as submitted.

DISPOSAL OF SEWAGE

The applicant provides there will be no additional burden on the GWA public sewer system since onsite septic systems will be used. The Operations and Maintenance Building will have negligible sewage discharge flows from the bathroom and the sewer service will be handled by an onsite Septic Tank disposal system.

ACCESS

The property selected for the project development is off Marbo Cave Road, a 60 feet wide public access and utility easement. If approved, site development plans call for 10-feet wide paved, operation access roads internally within the property.

PARKING

As a utilities facility, access is limited to authorized personnel only. The ongoing operations and maintenance of the facility will have 2-3 authorized personnel present daily. Minimum parking requirements are 3 parking spaces for every 4 employees.

STRUCTURAL LOCATIONS and DIMENSIONS OF BUILDINGS

Two structural elements are presented in the application which serve as a caveat to fulfilling the requirements of Section 61303 of the zoning code:

A. Solar PV Layout and Geometry: The site plan has been developed based on a 60MW Solar PV module layout. The conceptual plan utilizes solar PV array blocks of about 2MW ratings. PV inverters are distributed throughout the site integrated

- with each 2MW array block. Perimeter boundaries dictate solar PV arrays to accommodate site geometry.
- B. Operations and Maintenance Building: A 25' by 60' operations and maintenance building and a 1,000 gallon-capacity septic tank will be constructed for the project. Additionally, a substation building will be constructed in accordance with the needs of the Guam Power Authority. Further, zoning requirements for building dimensions, setbacks, height and parking will be in conformance to all permitting requirements.

IMPACT OF PROPOSED USES ON ADJACENT LANDS INCLUDING HEALTH, SAFETY and GENERAL WELFARE FACTORS

The intended use does not require any deviation from the law; however, because the present zoning of the property is designated as "A" (Rural-Agricultural) zone and the use is a permitted conditional use of the land, it is required to be subjected before this Commission prior to its implementation. If approved, the publics' health, safety and welfare will have been adequately addressed.

In earlier consultation with the applicant, we considered the option to subject this application under a rezoning action under the zoning designation as a "Public Facility" (PF) as such would have been an appropriate designation. However, because of the delicate nature of a "rezoning" action, we believed that subjecting this under a "conditional use" would be more acceptable to the community as such alternative is considered community input-sensitive. Thus, the strategy was that under a conditional use approval, there would be conditions imposed versus a zone change wherein conditions could not be made a part of the approval.

The applicant has submitted supplemental information in reply and response to the public hearing held on November 7, 2017. In our review and analysis of the form and context of this application in reference to the Zoning Law, as well as position statements received to date from ARC members who have recommended approval with conditions, we conclude that the proposed use is necessary for the health, safety and general welfare of the community.

We have tracked this application from its submission and it is our findings that this requested Conditional Use is in line with the requirements of Section 61303 of the Zoning Code. We find it proper that it be considered favorably by the Guam Land Use Commission.

- 5. RECOMMENDATION: We recommend APPROVAL WITH CONDITIONS as follows:
 - A. That the applicant, adhere to the ARC conditions and requirements as stipulated on their official Position Statement; and
 - B. If this Conditional Use Permit is granted, The Applicant is required to carefully read, Understand, and Comply with the Time Limitation Condition Noted on

the First Page and the Acknowledgment Agreement at the Last Page of the Notice of Action that cites "Pursuant to Executive Order 96-26, Section 5, Applicant must apply for and receive a building or grading permit for the approved GLUC/GSPC project within one (1) year of the date of Recordation of the Notice of Action, otherwise, the approval of the project as granted by the Commission shall be null and void"; and

- C. That Applicant shall not submit any request for a Building or Grading Permit, should the Time Limitation as specified in EO 96-26, Section 5 has elapsed (note: if this occurs, the application must be resubmitted as a new application that must undergo the entire process anew); and
- D. Any changes to the approved site development plan shall as a result of ARC permitting agency requirements shall be reflected in an "As-Built" Survey Map to be submitted to the Guam Chief Planner prior to the issuance of an Occupancy Permit.

Marvin Aguilar

Guam Chief Planner

ATTACHMENTS

- 1. Vicinity Map
- 2. Public Hearing Results
- 3. Testimony received to date
- 4. Evidence of compliance to §61303 (c)(1): sign requirement
- 5. 252 FY2017/

Case Planners: Frank Taitano, Celine Cruz

The meeting was called to order at 6:07PM by Planning Division staff. Planning staff introduced the applicant and their representative, TG Engineers and the Mayor of Mangilao, Mr. Allan Ungacta. The Mangilao Mayor also introduced member of the Mangilao Planning Council who were in attendance. The applicants' representative, Mr. Kin Flores of TG Engineers began with a power point presentation regarding the request by LG CNS America, LLC to develop, construct and operate a renewable energy facility.

Question (Q): Is the transmission line above ground?

Response (R): Yes, the transmission lines with be constructed by LG CNS (Kepco) at no cost to Guam Power Authority but will be turned over to GPA who will be responsible for it.

Comment: Around 1980, the Government of Guam was given easement by the owners of the land so that Shobu could develop the property with the promise that water and power infrastructure will be installed for all property owners to be able to develop their property. The valley has been used by farmers over the years and they know the conditions out there. The valley is hot, and with ocean nearby it erodes metals. When there was a plan to use this area as a firing range, the owners of the lands in this area were against it because it was not something compatible with the farming that was already occurring there. The owners were more open to having a golf course/resort, which was another development idea that was shared with the property owners. This golf course/resort use was compatible with the existing uses. Now, the development of a renewable energy facility is being proposed and it is once again not compatible with the property.

Comment: We think that in 25-30 years the deteriorated materials will pollute the area.

Q: Why was power infrastructure never put in place?

R: There are service rules for development of infrastructure and unfortunately, there were not enough customers in this area to justify building power infrastructure.

Comment: There are 1,000 acres, there is opportunity to use the property for residential use.

Comment: Criteria must be established for development based on what has happened to the property owners.

Q: What is the status of the protest?

R: It is currently under review by the OPA.

Q: Who is the owner of the property?

R: Kepco LG CNS

Q: If the contract with GPA is for 25 years, what happens to the property after 25 years?

R: GPA has the first right of refusal to purchase the property at fair market value.

Q: What are you asking of us?

R: The development is not going to save the valley but it will provide some level of improvement. This is considered a passive project.

Q: Are there invisible negative effects, like radiation?

R: Medically and scientifically there are no health risks.

Q: Do you have any information with you today that proves there are no negative health effects?

R: The applicant will respond to this concern in writing.

Q: How many batteries, is there a chance of leaks or possibly an explosion?

R: There is very little chance of that happening.

Q: What is the possibility of leakage from the batteries going into the ground?

R: The applicant will respond to this concern in writing.

Zennon Belllinger: I have looked at disadvantages to solar power and there aren't a lot, but one concern is of the material that is being used (since all materials have a life span).

Also, what is the mitigation procedure for typhoons / earthquakes?

R: The design is for 120 MPH winds, and (category) 4 seismic activity – drawings will be stamped to meet codes and standards.

Q: What will happen if there is damage to the materials? How will materials and panels be disposed of? What types of chemicals comes from these materials? How do they affect the environment? Will they affect the water wells?

R: We are obligated to show proof that we are containing water runoff and watershed issues will be addressed through the permitting process.

Marcel Camacho: Requirements of a Conditional Use Permit are to provide for public health, safety and wellness, the letter in the application does not address the safety perspective. There is a 12" water line - has the water line been charged?

R: We have a 2" line extended to the right of the intersection

Q: What is the timeline for where you are at in this (conditional use) process?

R: We have gone through the ARC, we are conducting this public hearing now and then we will go before the GLUC. That is the body that make the decision.

Comment: Please have an alternate plan.

Q: What is the criteria that GEPA has and are all of those criteria covered in your plan? There will be hazardous materials out there and we want to know that there are criteria to ensure its safety to humans. R: The applicant will respond to this concern in writing.

Q: What if the watershed is compromised? What are the long-term effects?

R: The applicant will respond to this concern in writing.

Comment: There is plenty of Government land available for this type of project.

Q: What would be the effect of the panels to birds?

R: The applicant will respond to this concern in writing.

Q: Is there another project of similar size in a residential area? (Because there are currently houses down there.)

R: The applicant will respond to this concern in writing.

Marcel Camacho: are the 34 volt lines on regular power poles?

R: Yes

Marcel Camacho: Are the Dandan lines underground?

R: Yes

Marcel Camacho: What are the calculated impacts to the road? Can the road withstand the construction vehicles?

R: The applicant will respond to this concern in writing.

Curt Fiedler: There are endangered species in the area, found in the lot adjacent to this lot, how will the absorption of the solar energy affect the population of the rare tree snails?

R: The results of our biological survey do not indicated any endangered species.

Q: How will the flora and fauna in the adjacent properties be affected by this development?

R: The applicant will respond to this concern in writing.

Toni Johnson: Will easement impact the boundary there? Will this eliminate access to Marbo Cave?

R: This development will not alter any rights of way.

Q:Can you compare generation capacities? What is being generated by Cabras?

R: (9%) of total production

Q: What is the potential for fires? What types of chemicals are in the batteries?

R: the batteries are designed to have a long life.

Q: What, if any, kinds of toxins are in the batteries?

R: They are lithium ion batteries.

Q: How many batteries will be out there?

R:There will be eight containers for the batteries.

Q: What would be the response time for an emergency?

A: The plant will be completely automated with controls for safety.

Q: Is there a back-up plan for dealing with emergencies?

R: The applicant will respond to this concern in writing.

Q: The panels will be physically maintained, as far as the maintenance of the panels, what types of cleaners will be used?

R: We have computer systems to monitor performance of the panels, if the panels are underperforming, they will be cleaned with non-potable water.

Q: What is the potential for chemicals being used?

R: There are no plans to use chemicals

Q: How many jobs are anticipated?

R: Kepco LG will respond in writing.

Q: Will there be fencing around the project?

R: There will be a 6' chain link fence with barbed wire on top.

Q: Will it provide power to landowners down there?

R: The contract is to provide power is specific to selling to GPA.

Comment: The CCU says that they will save 2-3 million but by the 12th year, the owner expects to earn about 340 million? We have a lot to lose here.

R: Over the life of the project, it will save ratepayers.

Q: If this is approved, what is the timeframe?

R: We hope to have it ready by December 2019.

Q: How soon after this meeting will action be taken?

R: We will ensure all criteria of the application is within the information presented to the GLUC so that they can decide the action to take.

Q: Where did the 500' radius come from, why 500'? Response by Planning Staff:

Will the concerns and questions be answered before they go to the commission?

Q: With a 6' barbed wire fence, how will this affect land values?

R: The applicant will respond to this concern in writing.

Meeting was adjourned at 8:15 PM



Toni Johnson <toni.bluepacific@gmail.com>

Conditional Use application for solar plant facility

Steven Unpingco <ssunpingco@gmail.com>

5 November 2017 at 05:15

To: Toni Johnson <toni.bluepacific@gmail.com>, Rick Unpingco <ricku@ite.net>, John Unpingco <john.unpingco@yahoo.com>, arleenpierce <arleenpierce@gmail.com>, Ken Unpingco <kennunpingco@gmail.com>, Linda DeNorcey lindadenorcey@yahoo.com>, Joe Unpingco <joe.unpingco.ju@gmail.com>

Dear GLUC Chairman:

My name is Steven S. Unpingco and I own Lot 3. Tract 1533, located within the notice radius of the proposed solar plant facility. I support LG's application for a solar farm on the condition that development will not restrict, pose impediments, or compromise my ability to develop my property to it's highest and best use. I welcome a solar plant facility that is clean, environmentally friendly and provides renewable alternate energy sources. Thank you.

Steven S., Unpingco

primed win! John S. Unpingco 174 Ocean Summit Drive Piti, Guam 96915

MOV 07 2017 **

CETC/GALCIGING

November 6, 2017

Chairman, GLUC or
Executive Secretary, GLUC
c/o Department of Land Management
Land Planning Division
P.O. Box 2950
Hagatna, Guam 96932

Gentlemen:

I write to you as a property owner within 500 feet of the proposed development by TG Engineers, PC (request for a conditional use permit) Application No. 2017-39. My name is John S. Unpingco. I will be unable to attend the public hearing at the Mangilao Community Center as I will be on travel, but these are my sentiments/concerns regarding the project.

First, I assume that the project involves a solar plant as it is a project entitled "Mangilao Solar Plant". Proceeding on this assumption, my main concern is the safety of the pilots flying into Andersen Air Force Base. If it is in the area below a used "flight corridor", the reflection of the panels from the sun could be blinding to the pilots. Hopefully, this is not the case.

Second, if it is solar panels, can they be safely secured so that they do not blow away in the high winds of a typhoon. The solar panels would need to be capable of withstanding typhoon force winds in excess of 200 m.p.h. Can it be secured? The question is whether the wind-blown debris would affect adjacent property owner's buildings?

Third, the solar panels are angled to maximize catching the sun's rays. They can be adjusted to follow the angle of the sun in the mornings and afternoons. Would such an adjustment cause a glare to any apartment or hotel building development so that instead of a beautiful soothing view of the ocean and valleys what the apartment or hotel dwellers get is an awful glare from the sun shining on these solar panels. This would be a negative effect on the development of adjacent lands and something which would be a totally unacceptable by-product of the project.

Fourth, if this is a solar plant project and one which uses a trade-secret liquid (affectionately called "salad oil") which is boiled by the solar panels are there procedures and safeguards in place which would cover the transportation, storage, and disposal of

the "salad oil"? We wouldn't want our property to be environmentally inversely condemned.

Would the poles and wires used to carry the electricity to customers be so big and numerous and create an "eyesore" so that adjacent property owners' property values would be adversely affected? If so, this would be unacceptable.

These are but a few of the concerns I have as an adjacent property owner which I would like to see addressed in a calm deliberative manner.

Thank you for allowing me to share my sentiments/concerns regarding this project. I will be back on island on November 22, 2017 and would hope that my concerns have been addressed.

Sincerely

John S. Unpingco

EMILY REYES CRUZ

P.O. Box 2012 · Hagåtña, Guam 96932

November 7, 2017

John Z. Arroyo, Chairman Guam Land Use Commission c/o Department of Land Management Land Planning Division P.O. Box 2950 Hagåtña, Guam 96932 RECEIVED RECEIVED NOV 07 2017 **

Mov. 7, 2017

Jank Saifa 20

Planning Div. Den

Re:

Objection to Application of LG CNS America, LLC for Conditional Use Permit to Construct a Renewable Energy Facility (Solar Plant) on Lot 1, Tract 1541, Mangilao in an "A" (Rural/Agricultural) zone GLUC Application No. 2017-39

Dear Mr. Chairman and Members of the GLUC:

My name is Emily Reyes Cruz. I am the owner of Lot No. 5354-3A-5-17-R2, Mangilao. My property is just one of the many privately-owned parcels near the Marbo Cave area.

I strongly object to the application of LG CNS America, LLC for a Conditional Use permit that would allow it to construct a renewal energy facility or solar plant within 500 feet of my rural/agricultural zoned property.

Let me be clear from the start that I am not against solar power or solar farming. I support clean energy and a reduced reliance upon fossil fuels. Additionally, I understand and agree with Public Law 29-62 which says that at least 25 percent of Guam's power supply must come from renewable energy sources by the year 2035.

However, for the same reasons that the Marbo area was objectionable and inappropriate for use as a military firing range, the area is similarly inappropriate for a solar farm or any other type of industrial development. Because of Guam's limited and ever-decreasing natural resources, a solar plant should not be built in a pristine rural area such as Marbo. It is a fact that solar cells are form of hazardous e-waste. Just this summer, a study by the University of California, Berkley found that that solar panels create 300 times more toxic waste per unit of energy than nuclear power plants. Moreover, solar panels contain carcinogenic toxic metals such



as lead, chromium and cadmium which are known to leach out into the drinking water. 1, 2

Rather than rezoning or granting use permits in historical rural and agricultural areas, it is more appropriate and fitting to place hazardous waste industries in a brownfield site. A brownfield site is property that was previously contaminated but has been cleaned up and revitalized. The reuse of such properties protects the environment and boosts the economy. Most importantly, it also preserves existing greenspace and prevents unnecessary sprawl.

An example of a brownfield site is the former Dededo Solid Waste Transfer Station that was closed down two years ago. Once the environmental cleanup is completed, the Government of Guam will be able to use the property for other industrial or commercial endeavors. I respectfully suggest that reusing the transfer station property for a solar plant is completely in line with the principles of regeneration and conservation that are the very essence of a renewable energy facility.

Although I searched the Department of Land Management's website, I was unable to find a copy of LG CNS America's relevant application for Conditional Use permit. What exactly is the objective of the application? How large an area is being proposed for the solar farm? Is the Marbo area the only property that has been considered for such a facility? Will an Environment Impact Statement (EIS) detailing the risks and impacts of placing solar plant in the area be commissioned?

The lands at Marbo have always been culturally significant. For generations, their contiguous wilderness has been recognized as a habitat for wildlife and recreational enjoyment. My late husband and I purchased our Marbo property because we appreciated the tranquility and natural beauty of the area. Guam's development must be balanced with cultural preservation, and ancient historical places must remain off-limits to industrial and commercial intrusions, particularly those that are environmentally hazardous and pose risks to the public and wildlife.

Thank you very much taking the time to consider this letter.

EMILY REYES CRUZ

¹ Are we headed for a solar waste crisis? http://environmentalprogress.org/bignews/2017/6/21/are-we-headed-for-a-solar-waste-crisis (June 21, 2017).

² A clean energy's dirty little secret, http://www.nationalreview.com/article/449026/solar-panel-waste-environmental-threat-clean-energy (June 28, 2017).

NATIONAL REVIEW

A Clean Energy's Dirty Little Secret

Discarded solar panels are piling up all over the world, and they represent a major threat to the environment.

By Julie Kelly - June 28, 2017

Clean energy may not be so clean after all.

A new <u>study</u> by Environmental Progress (EP) warns that toxic waste from used solar panels now poses a global environmental threat. The Berkeley-based group found that solar panels create 300 times more toxic waste per unit of energy than nuclear power plants. Discarded solar panels, which contain dangerous elements such as lead, chromium, and cadmium, are piling up around the world, and there's been little done to mitigate their potential danger to the environment.

"We talk a lot about the dangers of nuclear waste, but that waste is carefully monitored, regulated, and disposed of," says Michael Shellenberger, founder of Environmental Progress, a nonprofit that advocates for the use of nuclear energy. "But we had no idea there would be so many panels — an enormous amount — that could cause this much ecological damage."

Solar panels are considered a form of toxic, hazardous electronic or "e-waste," and according to EP researchers Jemin Desai and Mark Nelson, scavengers in developing countries like India and China often "burn the e-waste in order to salvage the valuable copper wires for resale. Since this process requires burning off plastic, the resulting smoke contains toxic fumes that are carcinogenic and teratogenic (birth defect-causing) when inhaled."

This is one of the dirty little secrets behind the push for renewable energy. While consumers might view solar panels as harmless little windows made from glass and plastic, the <u>reality</u> is that they are intricately constructed from a variety of materials, making it difficult to disassemble and recycle them. Japan is already scrambling for ways

to reuse its mounting inventory of solar-panel waste, which is expected to exceed 10,000 tons by 2020 and grow by 700,000 to 800,000 tons per year by 2040. Solutions are hard to find, due both to the labor-intensive process of breaking down the panels and to the low price of scrap. (Dan Whitten, a spokesman for the Solar Energy Industries Association, disputes EP's study. In an e-mail to me, he claims that solar panels are "mainly made up of easy-to-recycle materials that can be successfully recovered and reused at the end of their useful life.")

This will also be a problem here in the U.S., which has more than 1.4 million solar-energy installations now in use, including many already near the end of their 25-year lifespan. Federal and state governments have been slow to enact disposal and recycling policies, undoubtedly fearful of raising any red flags about the environmental threat posed by a purported climate-change panacea. Meanwhile, at precisely the moment when, because of the rise of smartphones, Americans are generating less waste from consumer electronics, discarded solar panels are stacking up. EP estimates that Americans with solar roofs produce 30 to 60 percent more electronic waste than non-solar households.

"At a time when iPhones have reduced our need for digital cameras, alarm clocks, GPS systems, and other electronics, solar panels risk increasing overall e-waste production," Shellenberger says. "The people who could pay the price for this hazard are some of the poorest people in the world."

This is not to even mention the environmental damage done by *making* solar panels in the first place. A 2013 <u>investigation</u> by the Associated Press found that from 2007 to 2011, the manufacture of solar panels in California "produced 46.5 million pounds of sludge and contaminated water. Roughly 97 percent of it was taken to hazardous waste facilities throughout the state, but more than 1.4 million pounds were transported to nine other states." That's no way for a state to keep its carbon footprint small; one renewable-energy analyst quoted by the AP estimated it would take "one to three months of generating electricity [from the solar panels] to pay off the energy invested in driving those hazardous waste emissions out of state." Six years later, it's safe to assume the amount of toxic waste is even higher as solar-panel production continues to ramp up.

Thankfully, renewable-energy sources are at last facing some much-needed scrutiny, even within the ranks of green activists. A group of prominent scientists recently rebuked a study by Mark Jacobson, a Stanford professor and leading clean-energy (and anti-nuclear)

activist, who had claimed that the U.S. could generate energy exclusively from wind, water, and solar energy by the year 2050. The scientists said Jacobson's study "used invalid modeling tools, contained modeling errors, and made implausible and inadequately supported assumptions." The group admonished policymakers to "treat with caution any visions of a rapid, reliable, and low-cost transition to entire energy systems that relies almost exclusively on wind, solar, and hydroelectric power."

As the Trump administration considers reforming federal energy subsidies, officials should look at how renewable technologies such as solar panels impact the environment once they've outlived their usefulness. There is nothing environmentally friendly about creating mountains of hazardous waste in an effort to reduce CO₂ emissions.

READ MORE:

The Appalling Delusion of 100% Renewables, Exposed

The GOP Platform Is Right: Coal Is Clean

Wind-Energy Sector Gets \$176 Billion Worth of Crony Capitalism

— Julie Kelly is a writer from Orland Park, Ill.

Are we headed for a solar waste crisis?



Boy in Guiyu, China, atop a pile of electronic waste. Creative Commons, Basil Action Network, 2017.

By Jemin Desai and Mark Nelson

Last November, Japan's Environment Ministry issued <u>a stark warning</u>: the amount of solar panel waste Japan produces every year will rise from 10,000 to 800,000 tons by 2040, and the nation has no plan for safely disposing of it.

Neither does California, a world leader in deploying solar panels. Only <u>Europe</u> requires solar panel makers to collect and dispose of solar waste at the end of their lives.

All of which raises the question: just how big of a problem is solar waste?

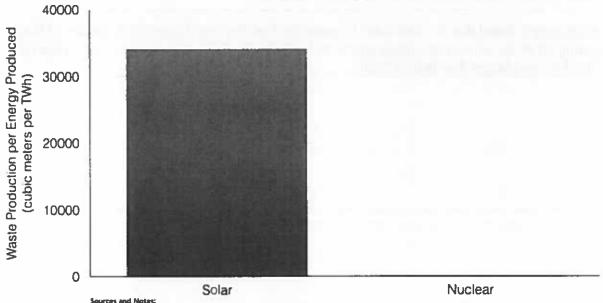
Page 1 of 4 11/7/2017

Environmental Progress investigated the problem to see how the problem compared to the much more high-profile issue of nuclear waste.

We found:

- Solar panels create 300 times more toxic waste per unit of energy than do nuclear power plants.
- If solar and nuclear produce the same amount of electricity over the next 25 years that nuclear produced in 2016, and the wastes are stacked on football fields, the nuclear waste would reach the height of the Leaning Tower of Pisa (52 meters), while the solar waste would reach the height of two Mt. Everests (16 km).
- In countries like China, India, and Ghana, communities living near e-waste dumps often burn the waste in order to salvage the valuable copper wires for resale. Since this process requires burning off the plastic, the resulting smoke contains toxic fumes that are carcinogenic and teratogenic (birth defect-causing) when inhaled.

Solar panels produce ~300x more waste than nuclear reactors when providing the same amount of energy.



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Page 2 of 4 11/7/2017 The study defines as toxic waste the spent fuel assemblies from nuclear plants and the solar panels themselves, which contain similar heavy metals and toxins as other electronics, such as computers and smartphones.

To make these calculations, EP estimated the total number of operational solar panels in 2016 and assumed they would all be retired in <u>25 years</u>—the average lifespan of a solar panel. EP then estimated the total amount of spent nuclear fuel assemblies that would be generated over a 25 year period. EP then divided both estimates by the quantity of electricity they produced to come up with the waste per unit of energy measure.

While nuclear waste is contained in heavy drums and regularly monitored, solar waste outside of Europe today ends up in the larger global stream of electronic waste.

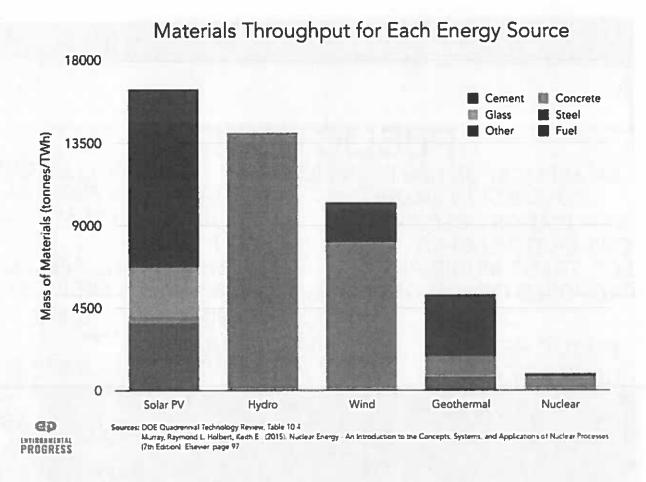
Solar panels contain toxic metals like lead, which can damage the nervous system, as well as chromium and cadmium, <u>known carcinogens</u>. All three are known to leach out of existing e-waste dumps <u>into drinking water supplies</u>.

The deployment of solar has increased significantly in recent years in response to government subsidies and mandates. Global installed capacity more than doubled between 2012 and 2015.

In 2016, solar provided 1.3% of the world's electricity, with 301 GW installed. Nuclear reactors provided 10% of the world's electricity in the same year.

A <u>recent report</u> found that it would take 19 years for Toshiba Environmental Solutions to finish recycling all of the solar waste Japan produced by 2020. By 2034, the annual waste production will be 70 - 80 times larger than that of 2020.

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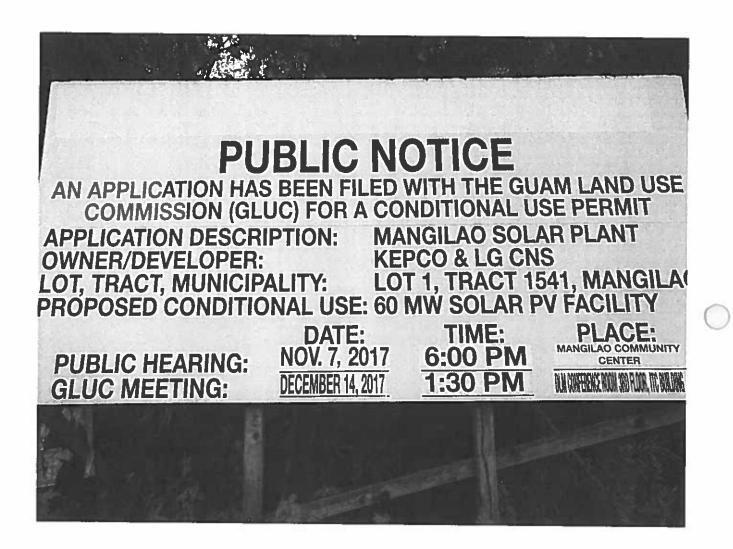


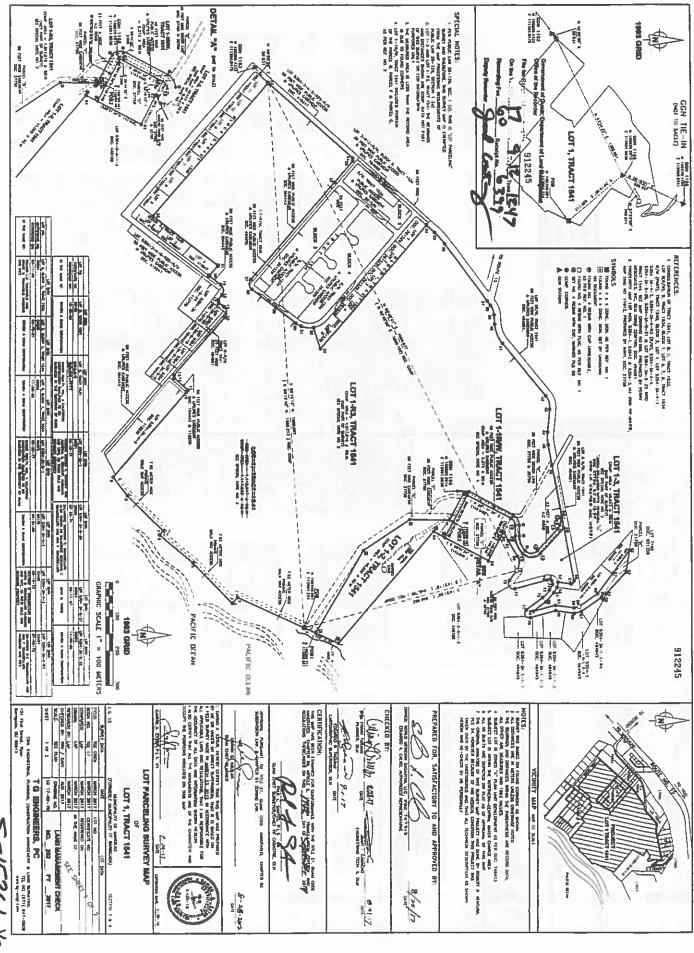
Methodological notes:

- "Solar" in this analysis exclusively refers to solar photovoltaic.
- For the analysis, EP assumed that each solar panel would last <u>25 years</u>
- EP estimated that a typical 1 GW nuclear reactor produces <u>27 tonnes of waste</u> annually.
- EP assumed that, worldwide, each nuclear reactor has a similar burnup.
- Capacity factors for solar PV and nuclear are derived from 2016 reports from BP Statistical Review of World Energy and IAEA PRIS and are assumed to remain constant over the 25 year period calculated.
- Nuclear share of world electricity was calculated by dividing <u>world nuclear electricity</u> generation by <u>total world electricity generation</u>.
- Solar panel specifications were standardized according to <u>TrinaSolar's Duomax Dual Glass</u> <u>60-Cell Module</u>.

Jemin Desai is an EP Fellow and a student at UC Berkeley. Mark Nelson is EP Senior Researcher.

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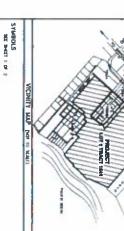




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DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÅHAN (Government of Guam)



MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

EDDIE BAZA CALVO Governor

RAY TENORIO Lieutenant Governor

December 7, 2017

MEMORANDUM

TO:

Guam Land Use Commission (GLUC) Members

FROM:

Chairman, Application Review Committee (ARC)

SUBJECT:

Summary of Positions Submitted by ARC

RE:

Application No. 2017-39 (Conditional Use)

Listed below is the compilation of Positions taken by the various ARC member agencies as submitted to Planning Division, Department of Land Management. The conditions as imposed by the ARC member agencies are listed when applicable.

DEPARTMENT OF LAND MANAGEMENT (DLM):

Planning staff recommends Approval with the following condition:

A. That the approval is subject to the ARC conditions and requirements as stipulated in their Official Position Statement.

GUAM ECONOMIC DEVELOPMENT & COMMERCE AUTHORITY (GEDCA): GEDCA has no objections

GUAM POWER AUTHORITY (GPA):

GPA has reviewed the application and submits the following position statement:

- A. Comments and Recommendations Concerning GPA requirements:
 - 1. Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
 - Coordinate overhead/underground power requirements with GPA Engineering for new structures;

Continuation of Memorandum Ref: ARC Summary of Position Statements - Application No. 2017-39 December 7, 2017 Page 2 of 3

- b. Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electric Code:
- c. Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements;
- d. Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection;
- e. Provide scheduling and magnitude of project power demand requirements for new loads;
- f. All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials;
- 2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations;
- 3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities;
- 4. All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.

B. General Comments:

Interconnection to the power grid will be dependent on approved power system mitigation projects and GPA's ability to effectively and responsibly receive the solar production subject to GPA solicitation of services and subsequent to CCU and PUC contract approval.

BUREAU OF STATISTICS AND PLANS (BSP):

The Bureau of Statistics and Plans (Bureau) has completed its review of the subject application and provides the following comments and recommendations.

Land Use. The Bureau finds that the proposed project is within the General Residential category according to the North and Central Guam Land Use Plan (NCGLUP) Future Land Use Map designations. The NCGLUP is approved as an element of the Guam Comprehensive Development Plan (GCDP).

General Residential. The Residential category provides for a range of residential densities, ranging from low density single family residences to multiple family structures. Nonresidential uses are generally discouraged except for public facilities, schools, and institutions, provided their nature and location are not detrimental to the residential environment. Where neighborhood-scaled commercial and retail is desired in a residential zone, a special design review process should be established to ensure compatibility with surrounding residential neighborhoods.

The Bureau also finds that this proposal is in line with the Environmental Vision and goals of the NCLUP that refer to renewable energy.

Aquifer Protection. The subject property is within the Ground Water Protection Zone of the Northern Guam Lens Aquifer (NGLA). The aquifer is an essential resource for Guam and is the primary source of drinking water for eighty percent of the island population. Moreover, the U.S. Environmental Protection Agency has designated the NGLA a sole source aquifer for Guam's drinking water. Therefore, it is of paramount importance to prevent sources of contamination from entering Guam's water supply.

Continuation of Memorandum
Ref: ARC Summary of Position Statements - Application No. 2017-39
December 7, 2017
Page 3 of 6

It is with the above in mind that the Bureau reminds the applicant that the proposed activity not be deviated upon without ARC and TLUC approval prior to any changes occurring. As a condition to this use proposal any pesticides or hazardous materials must be contained and housed so as to prevent accidental spillage and contingent measures be implemented in order to minimize any negative impacts. The Guam EPA recommends that non-potable water be used to clean the solar panels which would minimize chlorine into our recharge and coastal waters as well.

Erosion Control. The alteration of vegetated areas to a solar facility with buildings, parking lots, roads and other surfaces that prevent water from filtering into the ground to our landscape greatly increases the runoff volume created during storms. Studies show that impervious surfaces can be directly correlated to increased runoff volumes as well as waterway velocities, erosion, and flooding. Controlling erosion and sediment runoff is a major factor in the protection of Guam's vital water resource.

The applicant is required to implement best management practices (BMPs) on site to control erosion and sediment before, during and after construction of the project. The applicant is advised to consult with Guam EPA for effective implementation of BMPs. These practices may include but are not limited to the following:

- 1. Install perimeter sediment controls to retain or filter concentrated runoff from disturbed areas to trap or retain sediment before it leaves the residential property.
- 2. Minimize unnecessary clearing and grading to preserve existing natural areas.
- Stabilize construction entrance and install necessary perimeter controls and diversions.
- 4. Disturbed areas shall be stabilized as soon as feasibly possible after construction.
- 5. Steep slopes shall be protected from erosion by limiting clearing of these areas.
- 6. Where feasible, schedule construction during dry season.

For detailed information on the above listed practices, we refer the property owners to the CNMI and Guam Stormwater Management Manual, which may be obtained from our website www.bsp.guam.gov under the Guam Coastal Management Program.

Low Impact Development (LID). The project site lies within the Mataguac Spring-Frontal Pacific Ocean Watershed. This area has seen an increase in impervious surfaces throughout the years. In the years between 2005 and 2011, the impervious surface area increased by more than five percent according to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP). As surface area increases so does the risk of flooding and degradation of water quality.

The LID approach works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features and minimizing the use of impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Impervious surfaces from roads, parking lots, driveways, and rooftops accelerate stormwater runoff. The Bureau is concerned that once impervious surfaces are installed, commercial pollutants are easily washed into the aquifer and nearby coastal waters. If not properly managed, this activity can adversely impact Guam's drinking water source and surrounding neighbors if measures are not in place to manage runoff on the property.

Continuation of Memorandum Ref: ARC Summary of Position Statements - Application No. 2017-39 December 7, 2017 Page 4 of 6

The Bureau recommends the applicant to consider a green approach by implementing island bioretention, permeable parking and walkways, living roofs, grassed swales and/or rain gardens as a means to avoid or minimize runoff from their property. These approaches will add great benefits such as low maintenance, stormwater management, aquifer recharge, beautification, and neighborhood collaboration and pride in accordance with the North and Central Guam Land Use Plan. An electronic file of the guidebook "Island Stormwater Practice Design Specifications" is available on the Bureau's, Guam Coastal Management Program's website www.bsp.guam.gov.

Historical and Archaeological Resources. The Bureau recommends that the applicant coordinate with the Department of Parks and Recreation, State Historic Preservation Office to ensure the preservation, protection, excavation, and evaluation of specimens and sites pursuant to Historical Objects and Sites, 21 GCA, Chapter 76.

In light of the many concerns above, the Bureau recommends approval to the Conditional Use request. The Solar Project is expected to give additional power and add to the valuable and much needed power supply through clean energy from the sun as an alternative to fossil fuel which would be a cost savings measure to the residents of Guam.

As government officials, it is our primary responsibility to ensure that the construction and operations of this proposed endeavor are in a manner designed to protect the public health, safety, and to promote the public welfare and convenience. We also encourage the applicant to protect Guam's natural resources and to ensure they are used in a sustainable manner. Si Yu'os Ma'ase

DEPARTMENT OF PARKS AND RECREATION (DPR):

DPR submits the following statement:

"We reviewed the subject application by TG Engineers, PC for conditional use of subject Lot and have no objection to the approval of this application. We recognize that this project is subject to have an Archaeological Monitoring and Discovery Plan (AMDP) with a section to include mitigation of the visual effects to Marbo Site (GHPI Number 66-04-0024). The AMDP has been submitted for our review."

GUAM WATERWORKS AUTHORITY (GWA):

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a conditional use permit to develop, construct, and operate a renewable energy facility (Mangilao Solar Plant), on Lot 1, Tract 1541, in an "A" (Rural) zone, in the Municipality of Mangilao.

This memorandum shall serve as GWA's position statement to the above conditional use request related to availability of water and sewer infrastructures to serve the above subject lot. This position statement shall not be construed as notice that water and sewer systems have the capabilities to accommodate the proposed development including fire flow without on-site or off-site improvements. Any extension of the water and sewer systems and/or capacity upgrades required to serve the property shall be subject to the rules and regulations of GWA. Any required extension to the existing facilities to serve the subject properties shall be at expense of the applicant.

Continuation of Memorandum
Ref: ARC Summary of Position Statements - Application No. 2017-39
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Page 5 of 6

Given the information provided in the application and field observations, the following comments are conditions for GWA's position in favor of the approval of this conditional use application:

- 1. The applicant must provide GWA with site development plans to construct the proposed development. The site development plans must illustrate the proposed point of connection for water and sewer and is subject to GWA inspection and approval. Submittals shall include water design calculations and complete drawings and specifications. Design calculations shall include proposed water demand calculations including fire-flow. If a development will be served by a septic tank/leaching field system, then the system must be approved by the Guam Environmental Protection Agency.
- 2. GWA requires the applicant to coordinate with the GWA Engineering Department at least six months prior to building permit application submittal. Discussions shall include the proposed water demand calculations in order to determine if existing facilities can accommodate the proposed development and if any off-site infrastructure improvements may be necessary.
- 3. If off-site water infrastructure improvements are installed by the developer, they will require prior approval from GWA, must meet GWA standards, be constructed in the public easement or right of way, and shall be subject to inspection by GWA. Any infrastructure improvements will be at the expense of the applicant. GWA's approval of the occupancy will be contingent upon the completion of offsite improvements.

The developer shall register maps and documents for new public rights of way or utility easements with the Department of Land Management and provide copies to GWA.

- 4. The applicant shall install GWA water meters in the public right of way or easement.
- 5. Backflow prevention devices are required for non-residential activities or when a development will be served by a master meter.
- 6. New development is subject to water and/or sewer system development charges.
- Privately-owned water tanks might be limited to a maximum fill rate to avoid adverse impacts to the public water system.
- 8. After a GWA utility service account is opened, the account holder is responsible for informing GWA of onsite activity changes that may affect the account's classification and utility service requirements. Activity changes include, but are not limited to, laundry, food service, and vehicle maintenance activities.

This GWA Position Statement shall remain valid for 365 calendar days from the date of this response.

Continuation of Memorandum Ref: ARC Summary of Position Statements - Application No. 2017-39 December 7, 2017 Page 6 of 6

DEPARTMENT OF PUBLIC WORKS (DPW):

The Department of Public Works ("DPW") has completed its review of subject application and has no objections to the proposed implementation, provided the following conditions be in place:

- A. secure the proposed area by providing fencing of the area:
- B. provide (a set) of preventative measure(s) to protect the solar plant from becoming a hazard to public safety and to take steps to ensure that the solar plant be reasonably resistant to wind and typhoon damage, earthquakes and/or other natural disasters

NOTE: Applicant must make sure that existing activities have no environmental effect or negative impact to surrounding and/or neighboring areas

DPW recommends approval of subject application with conditions (subject to the comments stated above, as reviewed by the Application Review Committee). Prior to the submittal of the building permit application, applicant must submit a complete set of design drawings with all the engineering disciplines needed. Drawings must also conform to the latest building code and applicable rules and regulations.

GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA):

Has not submitted Position Statement as of Staff Report date

DEPARTMENT OF AGRICULTURE (DoAg):

Has not submitted Position Statement as of Staff Report date

DEPARTMENT OF CHAMORRO AFFAIRS (DoCA):

Has not submitted Position Statement as of Staff Report date.

GUAM FIRE DEPARTMENT (GFD):

Has not submitted Position Statement as of Staff Report date.

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES (DPH&SS):

Has not submitted Position Statement as of Staff Report date.

GUAM PUBLIC SCHOOL SYSTEM (GPSS):

Has not submitted Position Statement as of Staff Report date.

Attachments:

ARC Position statements

Cc:

Aquilar

Executive Secretary, GLUC





Felix C. Benavente

MEMORANDUM

To:

Director, Department of Land Management

From:

Director, Department of Public Works

Subject:

FOR CONDITIONAL USE

Applicant:

KEPCO & LG CNS America, LLC

Application: 2017-39

Lot:

Lot 1, Tract 1541, Municipality of Mangilao

Buenas yan Hafa Adai! Applicant KEPCO & LG CNS America, LLC, a renewable resource developer, in partnership with Guam Power Authority ("GPA"), is proposing to implement a new 60 MW Solar PV facility and renewable integration energy storage system (RI-ESS). The project will be located on an approximately 276 acre parcel known as Sasajyan, located in Mangilao, Guam on Lot 1, Track 1541. The proposed project includes a 34.5 KV transmission interconnecting to the GPA grid nearby at Pagat Substation, which is about 1.2 miles north of Route 15. The project also includes two 16 MW/10 WH of RI-ESS battery systems to help stabilize the solar PV plant from abnormal power fluctuations.

The Department of Public Works ("DPW") has completed its review of subject application and has no objections to the proposed implementation, provided the following conditions be in place:

- A. secure the proposed area by providing fencing of the area;
- B. provide (a set) of preventative measure(s) to protect the solar plant from becoming a hazard to public safety and to take steps to ensure that the solar plant be reasonably resistant to wind and typhoon damage, earthquakes and/or other natural disasters

NOTE: Applicant must make sure that existing activities have no environmental effect or negative impact to surrounding and/or neighboring areas

DPW recommends approval of subject application with conditions (subject to the comments stated above, as reviewed by the Application Review Committee). Prior to the submittal of the building permit application, applicant must submit a complete set of design drawings with all the engineering disciplines needed. Drawings must also conform to the latest building code and applicable rules and regulations.

Should you have any questions, please contact Linda Ibanez in Charge or Maryrose Wilson at Division of Capital Improvement Projects ("CIP") at 646-3209 or 646-3224.

F GLENN LEON GUERRERO

| |banez/MWilson P- Culan 117 pins



Eddie B. Calvo Governor Ray Tenorio Lt. Governor

Department of Parks and Recreation Government of Guam

490 Chalan Palasyo, Agana Heights, Guam 96910 Director's Office: (671) 475-6288 Parks Division: (671) 475-6291 Guam Historic Resources Division: (671) 475-6294/5

Facsimile: (671) 477-2822



William N. Reyes
Director
John P. Taitano
Deputy Director

In reply refer to: RC 2017-0545

September 26, 2017

Memorandum

To:

Executive Secretary, Guam Land Use Commission

From:

Director, Department of Parks and Recreation

Subject:

Application No. 2017-39: Application for Conditional Use of Lot 1, Tract 1541

for Mangilao Solar Farm, Sasajyan, Guam

We reviewed the subject application by TG Engineers, PC for conditional use of subject Lot and have no objection to the approval of this application. We recognize that this project is subject to have an Archaeological Monitoring and Discovery Plan (AMDP) with a section to include mitigation of the visual effects to Marbo Site (GHPI Number 66-04-0024). The AMDP has been submitted for our review.

Should you have any questions, please do not hesitate to call us.

Sincerely,

William N. Reyes

Col . 10.10.1



GUAM WATERWORKS AUTHORITY

Gloria B. Nelson Public Service Building 688 Route 15, Mangilao, Guam 96913

MPige

OCT 06 2017

MEMORANDUM

September 22, 2017

TO: Michael Borja, Director, Department of Land Management

FROM: Miguel C. Bordallo, P.E., General Manager

SUBJECT: Position Statement on Conditional Use Application No. 2017-39 for

Lot 1, Tract 1541, in the Municipality of Mangilao

APPLICANT(S): LG CNS America represented by TG Engineers, PC

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a conditional use permit to develop, construct, and operate a renewable energy facility (Mangilao Solar Plant), on Lot 1, Tract 1541, in an "A" (Rural) zone, in the Municipality of Mangilao.

This memorandum shall serve as GWA's position statement to the above conditional use request related to availability of water and sewer infrastructures to serve the above subject lot. This position statement shall not be construed as notice that water and sewer systems have the capabilities to accommodate the proposed development including fire flow without on-site or off-site improvements. Any extension of the water and sewer systems and/or capacity upgrades required to serve the property shall be subject to the rules and regulations of GWA. Any required extension to the existing facilities to serve the subject properties shall be at expense of the applicant.

Given the information provided in the application and field observations, the following comments are conditions for GWA's position in favor of the approval of this conditional use application:

1. The applicant must provide GWA with site development plans to construct the proposed development. The site development plans must illustrate the proposed point of connection for water and sewer and is subject to GWA inspection and approval. Submittals shall include water design calculations and complete drawings and specifications. Design calculations shall include proposed water demand calculations including fire-flow. If a development will be served by a septic tank/leaching field system, then the system must be approved by the Guam Environmental Protection Agency.

REGENTED

010.10.1

- 2. GWA requires the applicant to coordinate with the GWA Engineering Department at least six months prior to building permit application submittal. Discussions shall include the proposed water demand calculations in order to determine if existing facilities can accommodate the proposed development and if any off-site infrastructure improvements may be necessary.
- 3. If off-site water infrastructure improvements are installed by the developer, they will require prior approval from GWA, must meet GWA standards, be constructed in the public easement or right of way, and shall be subject to inspection by GWA. Any infrastructure improvements will be at the expense of the applicant. GWA's approval of the occupancy will be contingent upon the completion of offsite improvements.

The developer shall register maps and documents for new public rights of way or utility easements with the Department of Land Management and provide copies to GWA.

- The applicant shall install GWA water meters in the public right of way or easement.
- 5. Backflow prevention devices are required for non-residential activities or when a development will be served by a master meter.
- 6. New development is subject to water and/or sewer system development charges.
- 7. Privately-owned water tanks might be limited to a maximum fill rate to avoid adverse impacts to the public water system.
- 8. After a GWA utility service account is opened, the account holder is responsible for informing GWA of onsite activity changes that may affect the account's classification and utility service requirements. Activity changes include, but are not limited to, laundry, food service, and vehicle maintenance activities.

This GWA Position Statement shall remain valid for 365 calendar days from the date of this response. Please contact GWA Engineering Division regarding water and sewer system improvement design and construction standards and procedures. For additional information please contact Mauryn McDonald, P.E., Permits and New Area Development Supervisor, at 300-6054.



GUAM POWER AUTHORITY

ATURIDÅT ILEKTRESEDÅT GUAHAN P.O.BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

August 15, 2017

158/24 Aug 2 3 2017

MEMORANDUM

To:

Chairman, Guam Land Use Commission

Executive Secretary, Guam Land Use Commission

From:

General Manager

Subject:

Lot 1, Tract 1541, Municipality of Mangilao, (LG CNS America, LLC); Conditional Use

Application to construct a 60MW Solar Photovoltaic Facility. Application No. 2017-39

Guam Power Authority has reviewed the application described above and submits the following position statement:

A. Comments and Recommendations Concerning GPA requirements:

 Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:

 Coordinate overhead/underground power requirements with GPA Engineering for new structures.

 Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.

 Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.

 Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.

Provide scheduling and magnitude of project power demand requirements for new loads.

• All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.

- 2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
- 3. A system impact assessment is required to determine the effect of this facility on GPA's existing power facilities.
- 4. All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.

B. General Comments

Interconnection to the power grid will be dependent on approved power system mitigation projects and GPA's ability to effectively and responsibly receive the solar production subject to GPA solicitation of services and subsequent to CCU and PUC contract approval.

JOHN I. BENAVENTE, P.E

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: Guam Power Authority
Applicant: LG CNS America, LLC
Location: Lot 1, Tract 1541, Mangilao
Type of Application: Conditional Use
GLUC/GSPC Application No. 2017-39

Brief Project Description:

To construct a 60MW Solar Photovoltaic Facility.

For the purposes of this Certification, GOVERNMENT SERVICES, FACILITIES, and INFRASTRUCTURE include, but are not limited to: power lines poles and facilities; water lines, pumps and facilities; sewer and liquid waste disposal; storm water disposal; solid waste disposal; telephone lines and facilities; schools; health facilities; police and fire fighting service and facilities; roads; traffic and street lights; parks and recreational activities.

1.	I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently AVAILABLE AND IN PLACE to support this project: Yes No
2.	If the answer to #1 above is YES, then: I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently ADEQUATE to support this project:
	Yes ☐ No ⊠
3.	If the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE currently

٥,	If the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE currently in
	place are NOT AVAILABLE or they are AVAILABLE, BUT NOT ADEQUATE, itemize the
	services, facilities and infrastructure that are needed, the estimated cost thereof and whether funds
	are currently available and identified to develop such services, facilities and infrastructure:

Services, Facilities and	Cost of Upgrades	Funds	Date Available	Funds
Infrastructure Needed		Available		Identified
Please see comments below				

I hereby certify that the foregoing is true and correct to the best of my knowledge.

JOHN M. BENAVENTE, P.E. General Manager 8/21/17

Comments:

Based on a preliminary inspection of the site, the electrical facilities <u>may</u> require upgrading to meet the demand of the proposed project. A system impact assessment maybe required to determine the effect of this facility on GPA's existing power distribution system. The applicant will be responsible for the cost of any required system upgrade.

Eddie Baza Calvo Governor of Guam



Carl V. Dominguez
Director
Manuel Q. Cruz
Deputy Director

Ray Tenorio
Lieutenant Governor

Government of Guam
P.O. Box 2950 Hagåtña, Guam 96932
Tel: (671) 472-4201/3
Fax: (671) 477-1812

MEMORANDUM

TO:

Chairman, Guam Land Use Commission

VIA:

Executive Secretary, Department of Land Management

FROM:

Director, Bureau of Statistics and Plans

SUBJECT:

DLM Application No. 2017-39; Location: Tract 1541, Lot 1, in the Municipality of Mangilao, Guam; Applicant: LG CNS America, LLC c/o TG Engineers, PC; Proposal: Conditional Use to develop, construct, and operate a renewable energy facility (Mangilao Solar Plant in an "A" (Rural) Zone

Håfa Adai! The applicant, LG CNS America, LLC c/o TG Engineers, PC is requesting for a Conditional Use in an "A" Zone to develop a 276 acre 60 megawatt Solar Photovoltaic Facility in the municipality of Mangilao. The property contains a total area of 1,118,047 square meters or 12,034,506 square feet which is approximately 276 acres in size. The applicant is proposing to develop a solar panel farm which includes a 34.5 kv transmission interconnection to the GPA grid from the nearby Pagat substation about 1.2 miles to the North of the project site on Route 15. There will be approximately 230,000 panels proposed that will cover about 200 acres of the 276 acres. The facilities on this compound will consist of an operations and maintenance building, a building for 24 hour personnel, and a building that will serve as a storage and restroom.

Normal bush cutting activity will be done to keep the solar panels free and clear of overgrowth. Fourteen foot access aisles will be used to minimize the need for coral based or asphalt roads and minimize impervious surfaces and the solar panels will be cleaned with rain water that will be chlorine free. Also, a ponding basin will be installed.

The location of the project site can be found in the Sasajyan, Mangilao, Guam commonly referred to as the Marbo area directly fronting the Route 15 intersection to the Latte Heights, Mangilao entrance and across to Dededo via the Latte Heights subdivision. The current make-up of the site location can be considered as a sloping terrain with a mixture of vacant

BSP Position Statement ARC 2017-39 Page 2

overgrowth forested properties which were cleared more than once as per previous proposals.

The Bureau of Statistics and Plans (Bureau) has completed its review of the subject application and provides the following comments and recommendations.

Land Use. The Bureau finds that the proposed project is within the General Residential category according to the North and Central Guam Land Use Plan (NCGLUP) Future Land Use Map designations. The NCGLUP is approved as an element of the Guam Comprehensive Development Plan (GCDP).

General Residential. The Residential category provides for a range of residential densities, ranging from low density single family residences to multiple family structures. Nonresidential uses are generally discouraged except for public facilities, schools, and institutions, provided their nature and location are not detrimental to the residential environment. Where neighborhood-scaled commercial and retail is desired in a residential zone, a special design review process should be established to ensure compatibility with surrounding residential neighborhoods.

The Bureau also finds that this proposal is in line with the Environmental Vision and goals of the NCLUP that refer to renewable energy.

Aquifer Protection. The subject property is within the Ground Water Protection Zone of the Northern Guam Lens Aquifer (NGLA). The aquifer is an essential resource for Guam and is the primary source of drinking water for eighty percent of the island population. Moreover, the U.S. Environmental Protection Agency has designated the NGLA a sole source aquifer for Guam's drinking water. Therefore, it is of paramount importance to prevent sources of contamination from entering Guam's water supply.

It is with the above in mind that the Bureau reminds the applicant that the proposed activity not be deviated upon without ARC and TLUC approval prior to any changes occurring. As a condition to this use proposal any pesticides or hazardous materials must be contained and housed so as to prevent accidental spillage and contingent measures be implemented in order to minimize any negative impacts. The Guam EPA recommends that non-potable water be used to clean the solar panels which would minimize chlorine into our recharge and coastal waters as well.

Erosion Control. The alteration of vegetated areas to a solar facility with buildings, parking lots, roads and other surfaces that prevent water from filtering into the ground to our landscape greatly increases the runoff volume created during storms. Studies show that impervious surfaces can be directly correlated to increased runoff volumes as well as waterway velocities, erosion, and flooding. Controlling erosion and sediment runoff is a major factor in the protection of Guam's vital water resource.

BSP Position Statement ARC 2017-39 Page 3

The applicant is required to implement best management practices (BMPs) on site to control erosion and sediment before, during and after construction of the project. The applicant is advised to consult with Guam EPA for effective implementation of BMPs. These practices may include but are not limited to the following:

- 1. Install perimeter sediment controls to retain or filter concentrated runoff from disturbed areas to trap or retain sediment before it leaves the residential property.
- 2. Minimize unnecessary clearing and grading to preserve existing natural areas.
- 3. Stabilize construction entrance and install necessary perimeter controls and diversions.
- 4. Disturbed areas shall be stabilized as soon as feasibly possible after construction.
- 5. Steep slopes shall be protected from erosion by limiting clearing of these areas.
- 6. Where feasible, schedule construction during dry season.

For detailed information on the above listed practices, we refer the property owners to the CNMI and Guam Stormwater Management Manual, which may be obtained from our website www.bsp.guam.gov under the Guam Coastal Management Program.

Low Impact Development (LID). The project site lies within the Mataguac Spring-Frontal Pacific Ocean Watershed. This area has seen an increase in impervious surfaces throughout the years. In the years between 2005 and 2011, the impervious surface area increased by more than five percent according to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP). As surface area increases so does the risk of flooding and degradation of water quality.

The LID approach works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features and minimizing the use of impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Impervious surfaces from roads, parking lots, driveways, and rooftops accelerate stormwater runoff. The Bureau is concerned that once impervious surfaces are installed, commercial pollutants are easily washed into the aquifer and nearby coastal waters. If not properly managed, this activity can adversely impact Guam's drinking water source and surrounding neighbors if measures are not in place to manage runoff on the property.

The Bureau recommends the applicant to consider a green approach by implementing island bioretention, permeable parking and walkways, living roofs, grassed swales and/or rain gardens as a means to avoid or minimize runoff from their property. These approaches will add great benefits such as low maintenance, stormwater management, aquifer recharge, beautification, and neighborhood collaboration and pride in accordance with the North and Central Guam Land Use Plan. An electronic file of the guidebook "Island Stormwater Practice Design Specifications" is available on the Bureau's, Guam Coastal Management Program's website www.bsp.guam.gov.

BSP Position Statement ARC 2017-39 Page 4

Historical and Archaeological Resources. The Bureau recommends that the applicant coordinate with the Department of Parks and Recreation, State Historic Preservation Office to ensure the preservation, protection, excavation, and evaluation of specimens and sites pursuant to Historical Objects and Sites, 21 GCA, Chapter 76.

In light of the many concerns above, the Bureau recommends approval to the Conditional • Use request. The Solar Project is expected to give additional power and add to the valuable and much needed power supply through clean energy from the sun as an alternative to fossil fuel which would be a cost savings measure to the residents of Guam.

As government officials, it is our primary responsibility to ensure that the construction and operations of this proposed endeavor are in a manner designed to protect the public health, safety, and to promote the public welfare and convenience. We also encourage the applicant to protect Guam's natural resources and to ensure they are used in a sustainable manner. Si Yu'os Ma'ase'.

CARL V. DOMINGUEZ

cc: GEPA DPR

DPW

GWA

GPA

PHOTOVOLTAIC FACILITY MANGILAO SOLAR PLANT

LOT 1, TRACT 1541, SASAJYAN

MUNICIPALITY OF MANGILAO, GUAM

GLUC HEARING FOR CONDITIONAL USE

DECEMBER 14, 2017

PREPARED FOR:

KEPCO & LG CNS

PREPARED BY:

TG ENGINEERS, PC

PRESENTATION OVERVIEW

- INTRODUCTIONS
- KEPCO
- LG CNS
- TG Engineers, PC
- Project Description
- Overall Project Site Plan
- PV Layout
- Project Site Grading
- Environmental Survey
- Archaeological Highlights
- Benefits
- Questions

KEPCO – Sponsor, Major shareholder(1)

Company Profile



¹⁾ Electric Power Trading Volume for 2016: 80.0% or 414,897GWh by 6 GENCOs, and 20.0% or 103,900GWh by IPP&PPA

²⁾ Others include major subsidiaries and affiliates of KEPCO other than 6 GENCOs

⁽Crodit Ratings & Ownership %: As of June 2017 / Other Information: As of End of 2016 / KRW/USD = 1,208.50)

${\tt KEPCO-Sponsor, Major\ shareholder}(2)$

Since the foundation of Hansung Electric Company in 1898, KEPCO has supplied stable electric power for 119 years through countless changes and innovations.

(2016) Named a global 100 corporation by Forbes in 2016

(2014) Moved KEPCO's headquarters to Naju

2000~

2010s

2014 Organized 20th Conference of Electric Power Supply Industry

(2013) Hosted the World Energy Congress (WEC)

2009) Won first overseas nuclear plant contract (UAE)

1994 1995 KEPCO shares listed on the New York Stock Exchange Won the Malaya ROMM project in the Philippines

(1982) KECO renamed Korea Electric Power Corp.(KEPCO)

1979 Completed power network construction for rural areas

1980s

1900~

1990s

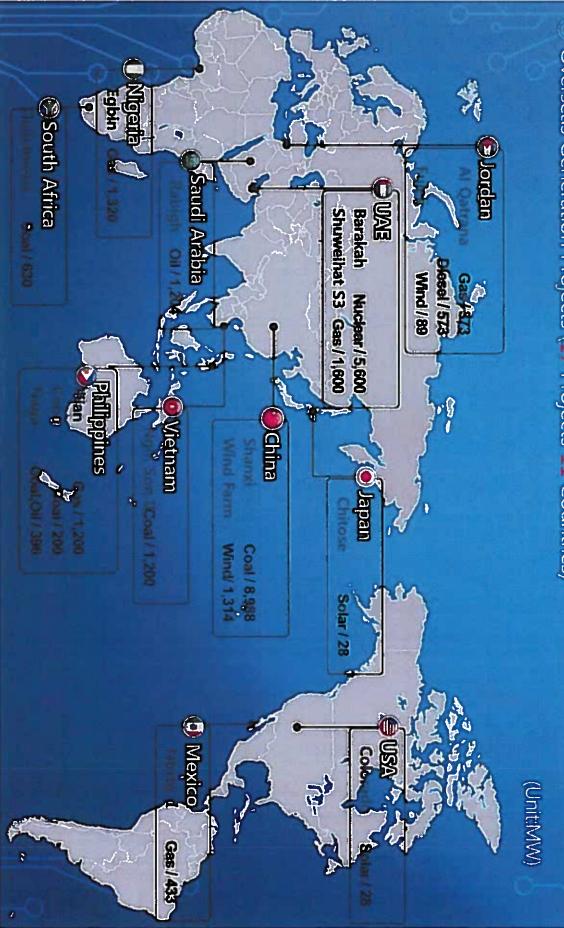
1961 Korea Electric Co. (KECO) established (Merger of three electricity providers)

1898 Hansung Electric Co. founded (predecessor of KEPCO)

18985

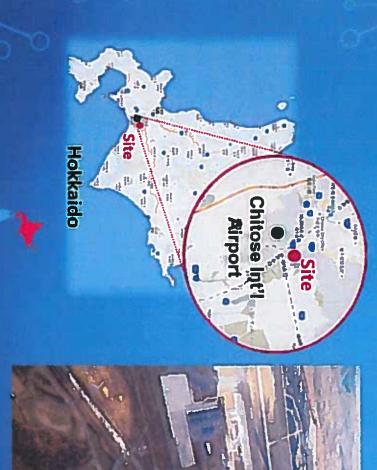
KEPCO – Sponsor, Major shareholder(3)

Overseas Generation Projects (17 Projects 11 Countries)



KEPCO – Sponsor, Major shareholder(4)

© "Solar + ESS" Project Reference





LG CNS – Sponsor, EPC Contractor & System Integrator

5 & LG CNS CNS At Glance



Founded in 1947, Sales: USD 140 Billion, 226,400 Employees Worldwide

Chemicals

Electronics

& global marketing electronics inclustry via R&D investment create the new future for the global using its innovation technology. I.G will by developing world-class products LG has led Korea's electronics industry





8



in 1947, LG has been faithful to its philosophy Since the inception of Lak Hui Chemical materials essential to people's lives of "making products customers need" LG develops chemical products and





Telecommunications & Services

each other mind-to-mind communication where customers meet IG will create a new world of whenever and wherever they need it. Swiftly provide information to customers





LG CNS – Sponsor, EPC Contractor & System Integrator

Key Solar Project References

225MW Installed

73MW in Korea / 152MW Overseas

		Oversea s				Korea		Market
Yambol, Bulgaria	Shimano, Japan	Shirakawa, Japan	Tojo, Japan	Mine, Japan	Tao-An	Yeong-Gwang	Floating Solar PV in Sangju	Project Title
21.0	11.0	31.0	32.0	55.0	14.0	11	6.0	Size (MW)
On operation	On operation	On operation	On operation	Under construction	On operation	On operation	On operation	Status
2012	2018	2017	2015	2018 (planned)	2008	2012	2016	Completion Year













LG CNS - Sponsor, EPC Contractor & System Integrator

Key Energy Storage Project References

125MW/120MWh Installed

Largest Market Share in Korea

June 2017	40 / 34	eas FR, RI ESS in Guam	Overseas
2013	0.08/0.3	Research Jeju Smart Grid Testbed	Rosear
2013	0.05/0.15	ESS for Tac-An Solar Plant	
2013	0.5 / 1.8	Shilla Univ.	
2015	0.5 / 1.7	LG Hausys Oksan Factory	
2014	3 / 23	LG Chem Iksan Factory	
2014	1.5 / 7		WOTEG
Mar 2017	3 / 14.3	LG Chom Ochang Factory Phase II	
2015	8 / (7.6)	FR ESS for KEPCO Phase I	
8016	24 / 7.8	FR ESS for KEPCO Phase II	
2016	36 / (12)	FR ESS for KEPCO Phase III	
2016	9 / 29.7	Dongbok, Jeju	K
Completion Year	Installed Capacity (WW / MWh)	tet Project Title	Market





[KEPSO Shinyongin Substation, socoal





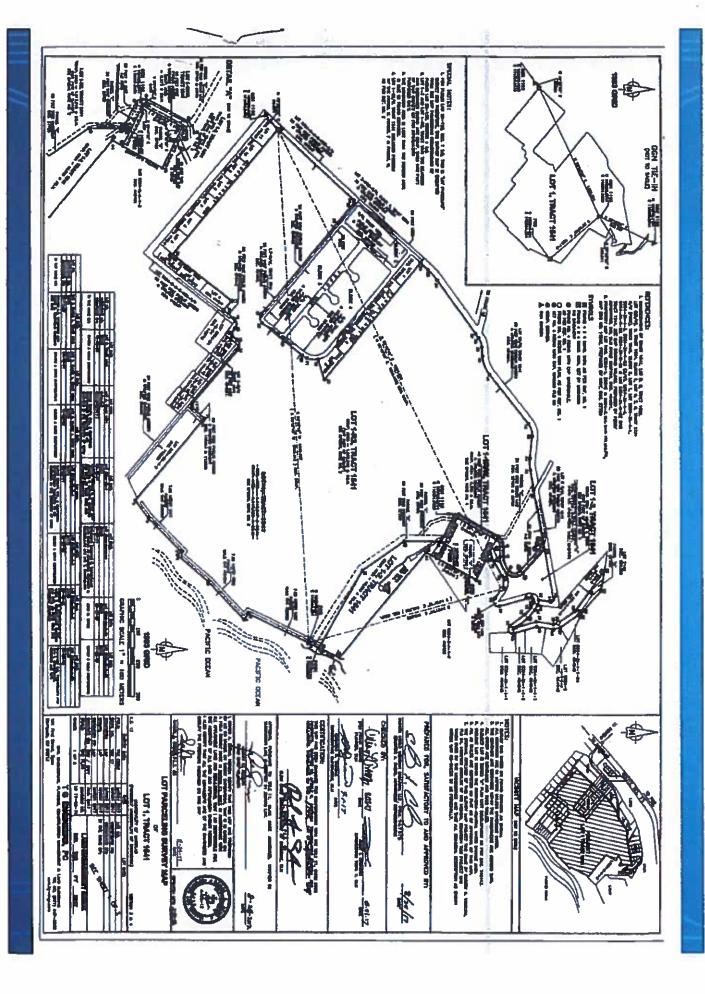


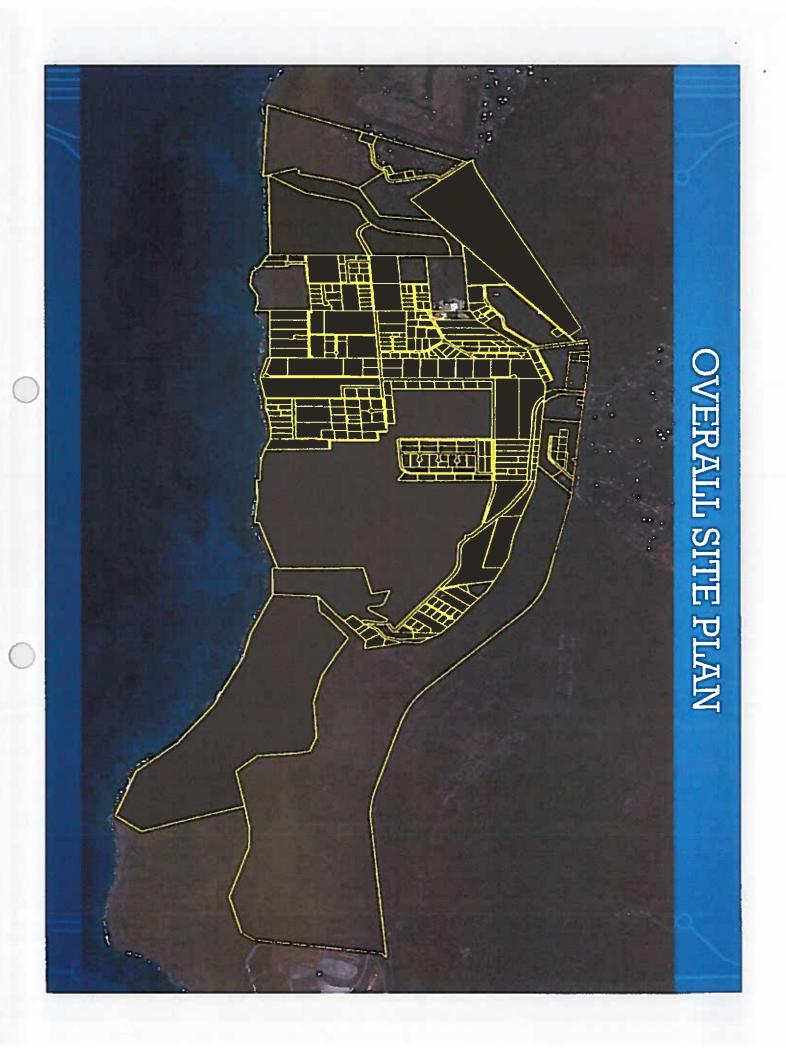
TG ENGINEERS, PC

- Incorporated on Guam in 2000
- Provider of consistent, quality Engineering, Planning, Surveying services on Guam throughout Micronesia Project Management, Construction Management and Land
- Works with local and federal agencies such as GPA, Guam DPW, GWA, GEPA, DoD, and various private firms
- Senior TGE project personnel:
- Tor Gudmundsen, PE Principal Engineer
- Joaquin "Kin" Flores, P.E Director of Energy Projects
- Jack Edward Project Manager, Civil Engineering
- Jeff Miller, MS, PE Construction Management
- Gavino Estur, PLS Professional Land Surveyor

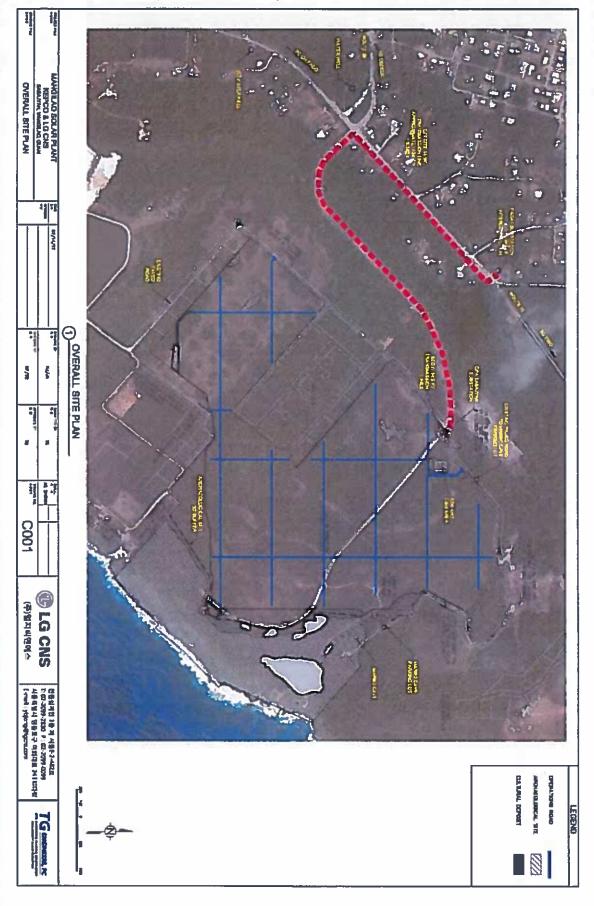
PROJECT DESCRIPTION

- Mangilao Solar Plant 60 Megawatts + 32MW/32MWH Energy Storage System (RI-ESS).
- Will generate approximately 149,000 MWh per year
- Located on 175 acres in Sasajyan, Mangilao.
- Includes a 34.5 kV transmission interconnection to GPA power grid at Pagat Substation.
- Preserves coastal areas, no pollution, noise, solid waste generated, traffic, impact to utilities





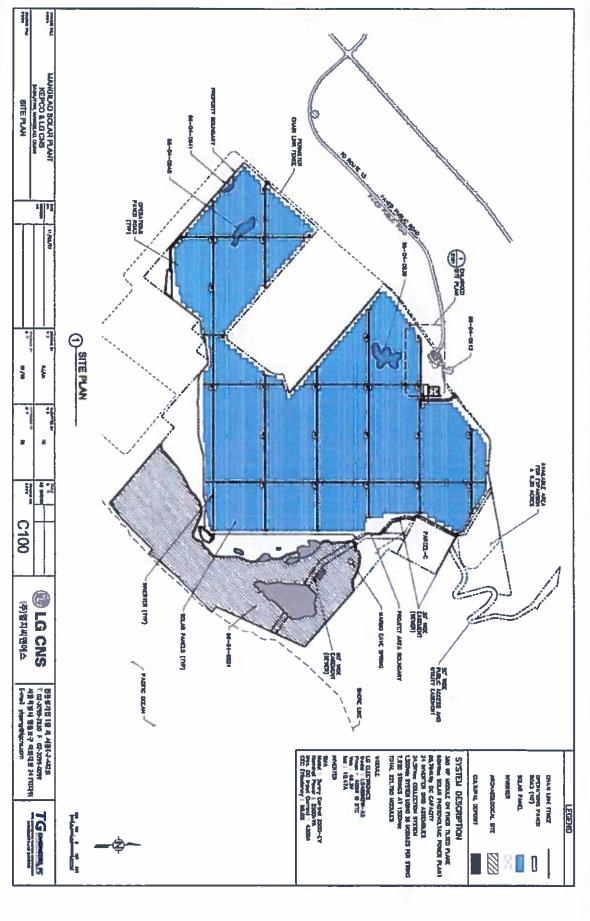
OVERALL SITE PLAN



BENEFITS

- Using solar energy will help achieve Guam's goal to reduce fossil fuel consumption in all sectors to 25% by 2020
- Solar is a zero fuel cost resource. This means lower costs all around—GPA predicts \$34M savings over 1st 5 years
- Reduces energy cost—Mangilao Solar Generation Unit Price: 8.5¢, Current Guam Generation Unit Price: 11 ¢
- More reliable energy with RI-ESS--means consistent power
- Eliminates emission of approximately 30,000 metric tons of CO2 annually (as calculated by EPA guidelines)
- Reduces Guam's dependence upon imported diesel and heavy fuel oil in the event of a disaster that inhibits fuel shipments
- Creates jobs over 25 years
- Provides significant construction activity Employment & Local Revenues
- Best/right choice for improving the area

PV LAYOUT



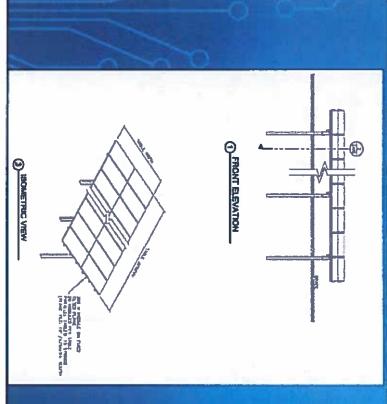
PV LAYOUT CONCEPT

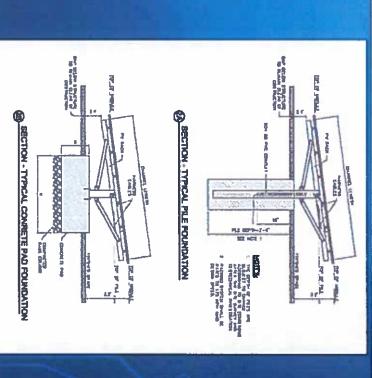
- Natural topography and low-level PV panels
- Design has considered preserving ocean view
- Visual buffering along perimeter-heavy jungle
- Security for the entire area
- Landscaping along cliff line fence toward Pagat
- Solar PV does not emit noise
- Designed for 25 years securing a long-term source of sustainable power
- Solar panels will be installed to withstand typhoons
- Storm water will be managed onsite
- No waste water will be generated
- O&M Services will require local labor force

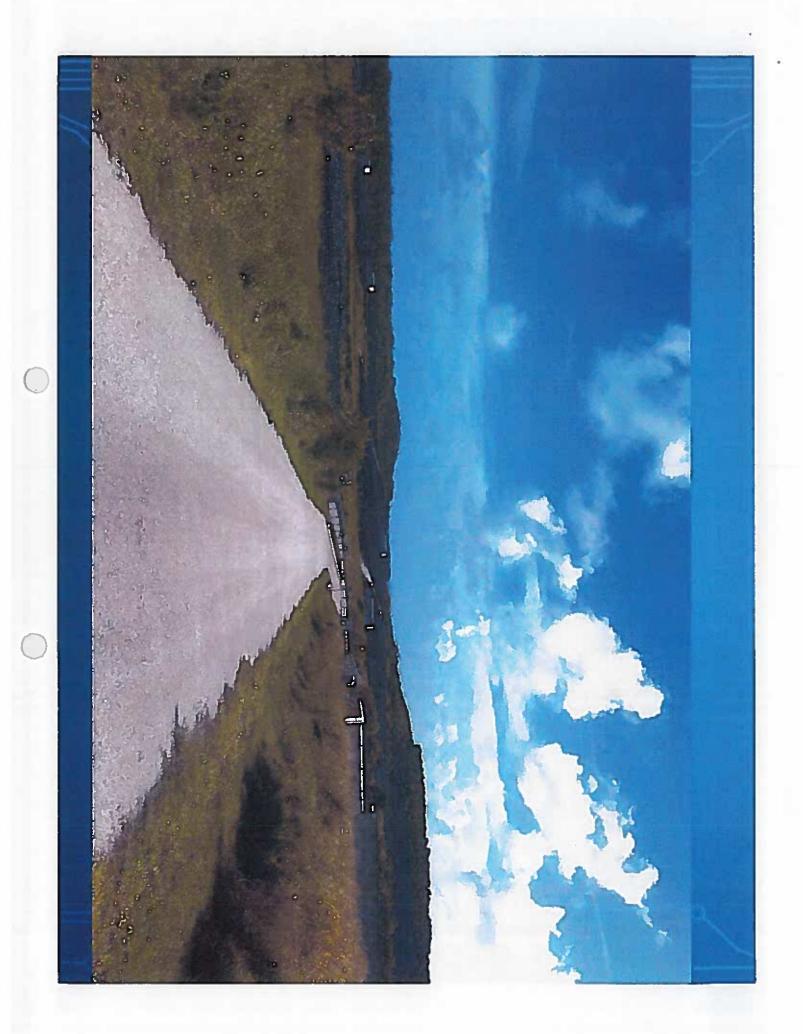
TYPICAL PV INSTALLATION & FOUNDATION CONCEPT

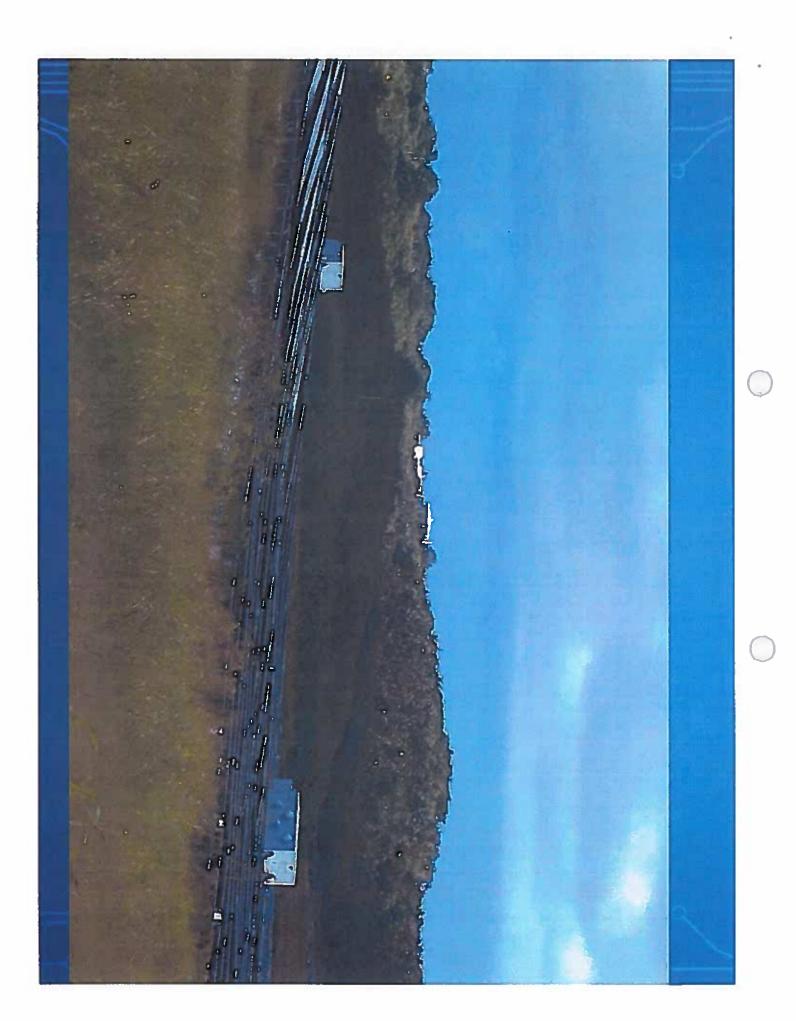


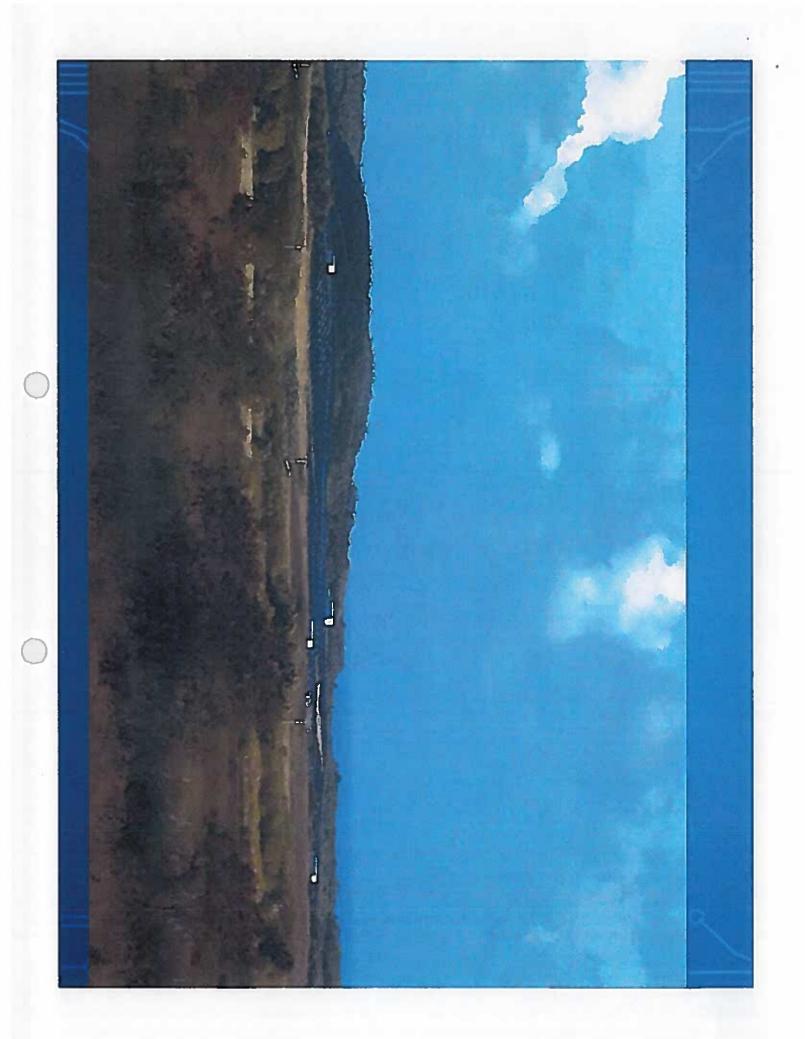


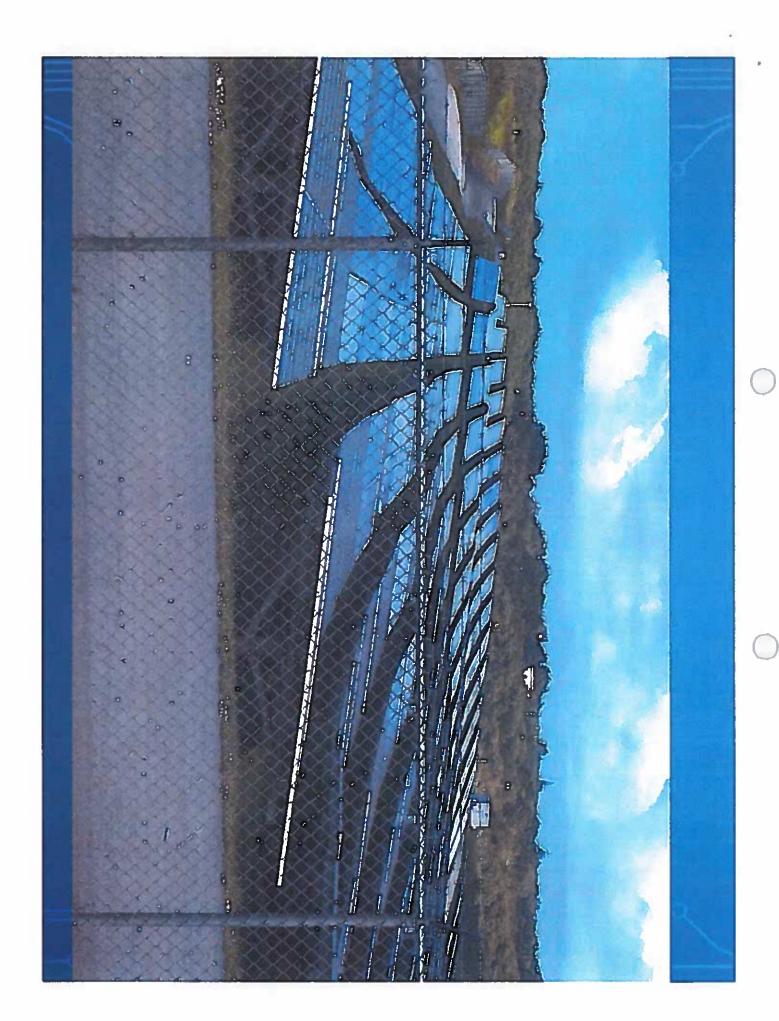






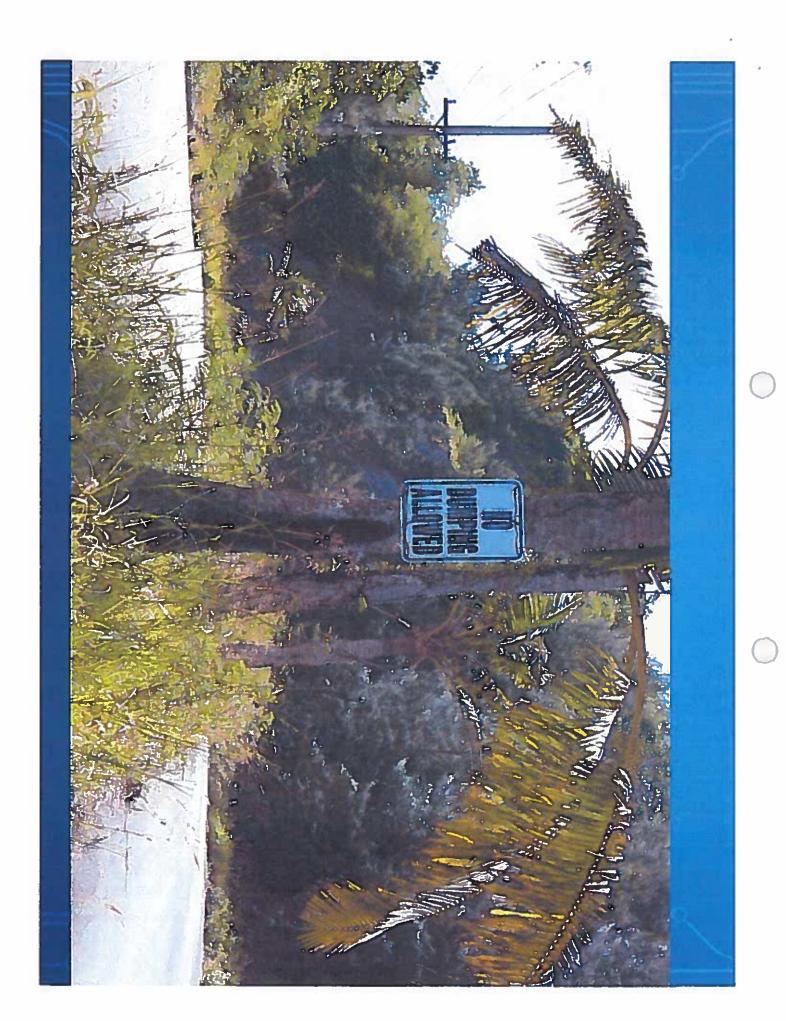


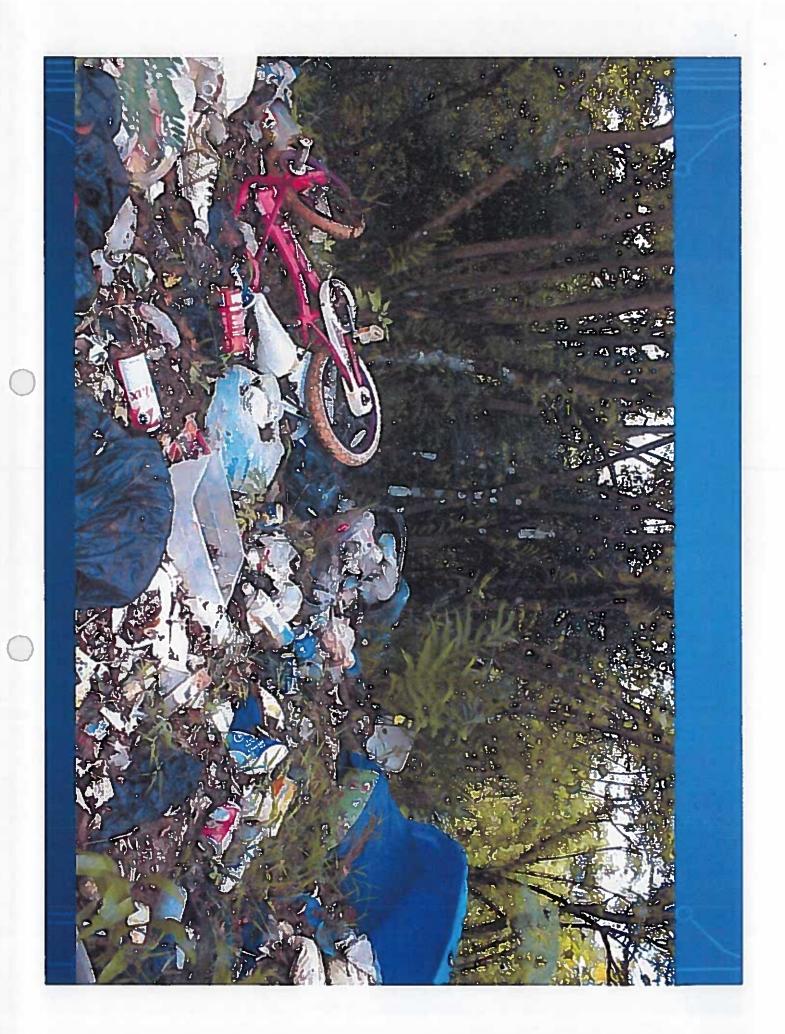


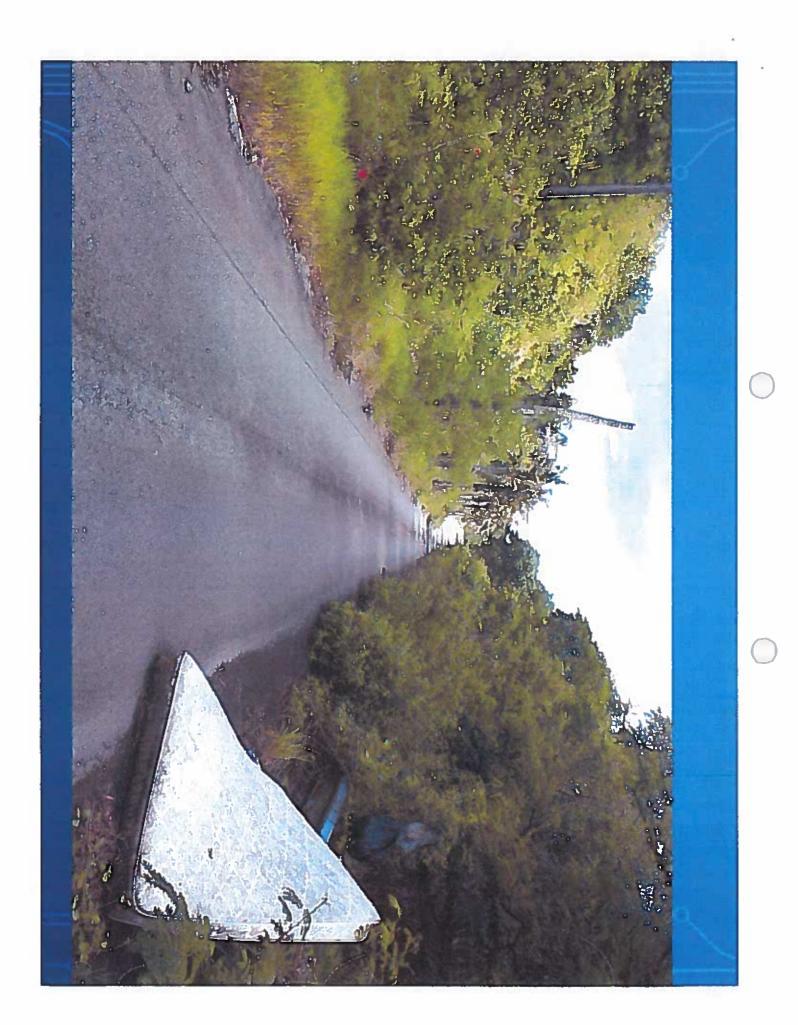


ENVIRONMENTAL SURVEY

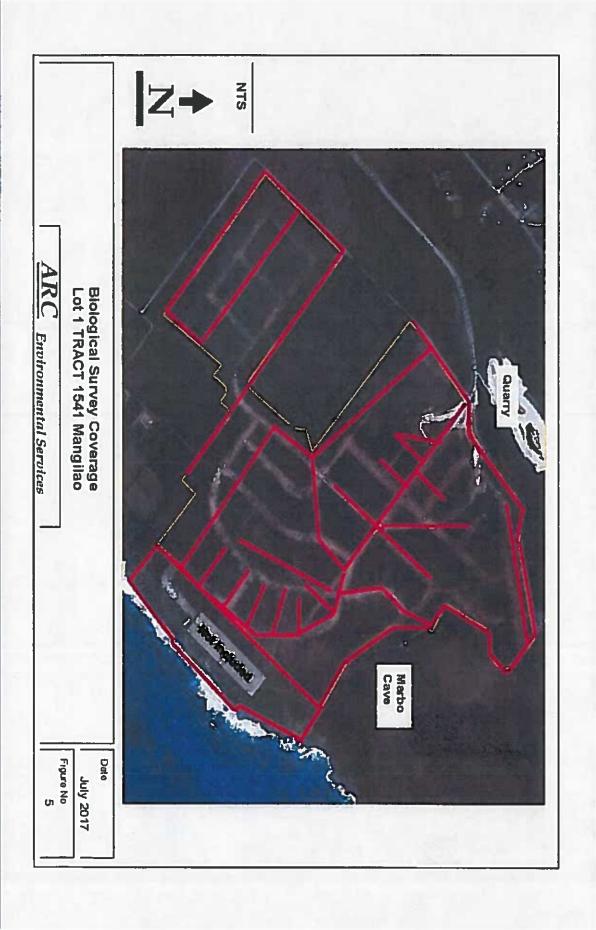
- The project site has been confirmed to contain no endangered species of plants or animals
- Trees and shrubbery will be planted.
- Dept. of Agriculture will be consulted for transplanting Fadang, Nanasu, and Hunik
- Significant solid waste found onsite.
- No chemical or hazardous wastes found.
- Invasive species found—yellow-banded wasp.







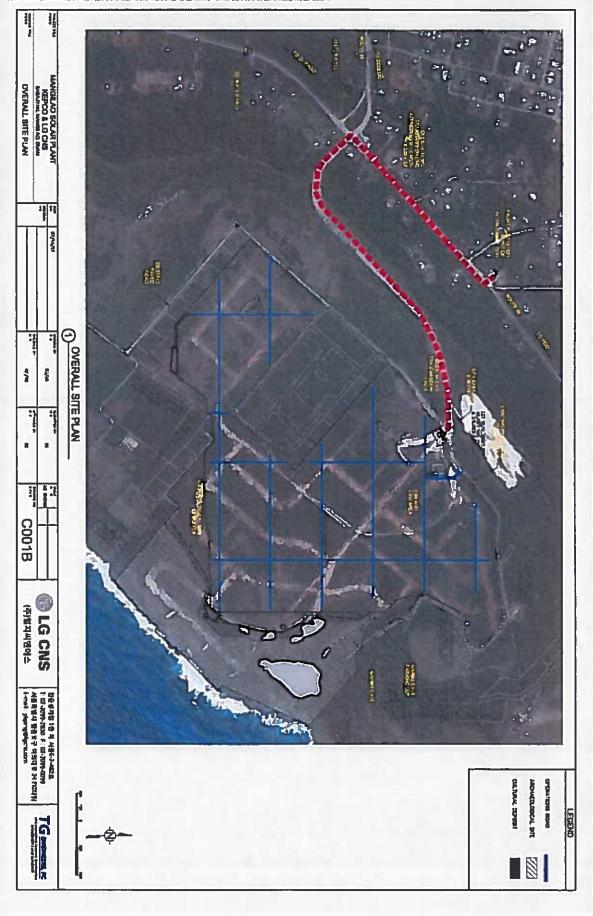
ENVIRONMENTAL SURVEY



ARCHAEOLOGICAL & CULTURAL SURVEY

- Marbo Cave is adjacent property and will NOT be
- Public access will continue unchanged.
- Extensive archaeological surveys and mitigation of cultural deposits conducted in 1993 and 2006
- Largest concentrations of artifacts located offsite preserve natural cultural areas along the coast. near the shore. The project will avoid and
- GSHPO has approved our Archaeological Monitoring and Discovery Plan for C&G.

ARCHAEOLOGICAL HIGHLIGHTS



LANDOWNER CONCERNS - TODAY'S GUAM POST SAVE SASAYAN VALLEY MARBO CAVE STATEMENTS NOT ACCURATE

- "Natural devastation of the physical nature of the valley...depriving future livelihood".
- "...fears of unseen long-term health hazards from daily exposure to magnetic fields as radiation heat temperatures will rise as well".
- "Waste water is a big part of this industry...Sasayan and Marbo Cave are part of the Northern and Central water may connect environment.." Aquifers of natural spring waters...waste water may be trapped in limestone and deposits underground...waste

LANDOWNER CONCERNS - TODAY'S GUAM POST SAVE SASAYAN VALLEY MARBO CAVE STATEMENTS NOT ACCURATE

- What will happen to solar farm during storms if result, this is endangerment with debris flying around." designed to 170? "Safety and and personal harm can
- "...25 year contract with the government..federal land can never be used for agriculture. " plant..NC agricultural studies found former solar farm guidelines require decommissioning of the solar
- "Battery Storage..uses an average of 650 gallons per according to sources" hour of fresh water per megawatt hours of electricity

SI YU'OS MA'ASE.

QUESTIONS?

SAVE SASAYAN VALLEY-MARBO CAVE



LOCATION – SASAYAN, MANGILAO, GUAM 5 minutes to Mangilao COUNTRY Club Golf Course 8 minutes to A.B. Won Pat International Airport 10 minutes to Tumon Bay 15 minutes to Guam's Capital, Hagatna

We the landowners of Sasayan Valley are against the proposed non compatible location for an industrial solar farm activity in the physical nature of the Sasayan Valley. The developers are planning to build 230,000 multi-units manufactured metal/glass Solar Panels in the middle of this Valley. They are now seeking permit rezone to place this industrial business Solar Farm for commercial -profit use through GLUC approval. Our small close knit agrarian community is comprised of developers, realtors, architects, engineers, doctors, Lawyers, nurses, recreational advisors, educators, government and military retirees, historical and ancestral administrators, tourism and community founders, fresh water preservation advocates, artists, musicians, Chamorro entertainers, off-island entrepreneurs, farmers, ranchers and residents who plan to grow TOURISM.

Those of us who bought into this piece of paradise from the original landowners did so to enjoy the peace, serenity unpolluted lush green limestone forest, rich ocean wildlife, fresh clean air for health benefits; swimming in the cool spring waters of the underground cave. But most enjoyable and rewarding is our exposure to Pagat's indigenous ancestral habitats and trekking experiences.

What fears we have regarding the proposed project?

 Major natural devastation of the physical nature of the valley will change depriving us of future Livelihood.

We have fears for unseen long-term health hazards from daily exposure to magnetic fields going on in the Valley as radiation heat temperatures will increase as well.

3) Waste water is a big part of this industry, Sasayan Valley and Marbo Cave are part of Northern and Central Aquifers of natural spring waters, as these fresh waters flow down through the Valley slopes and gets trapped in limestone deposits underground. This wastewater may conta-minate the environment if not properly handled and disposed of

4) Solar, Farm rated storms 170 maximum winds, Guam's super typhoon categories are rated at an average of 190 mph. What will happen to these metals and glass materials? Safety and personal harm can result, this is endangerment with debris flying around.

Since this proposal by the private developers is a 25 year contract with government, federal guidelines require that after 25 years (lifeline) it is the responsibility of the owners of the solar farm to decommission the used debris into a landfill that would accept "toxic waste". It has been found by North Carolina agricultural studies that the former solar farm land can never again be used for agriculture.



The battery storage currently uses an average of 650 gallons per hour of fresh water that is needed per megawatt hours of electricity produced. The developers have informed through the public hearing that 60 megawatt will be in the Valley.

NO REZONING OF SASAYAN VALLEY FOR SOLAR FARM, SAVE OUR LANDS. GUAM HAS AVAILABLE EXCESS PUBLIC LAND FOR PUBLIC BENEFIT! ON BEHALF OF OUR ENTIRE COMMUNITY PLEASE STOP THE SOLAR FARM PROJECT!!! SAVE SASAYAN VALLEY HOME OF POPULAR MARBO CAVE! FOR ALL OF US!

Sen serimento '- Sgambelluri, Nelson, Pisarri, Perez etal. (landowners)



Impact of solar PV on aviation and airports

Summary of evidence compiled by the Solar Trade Association to help inform the debate around permitted development for non-domestic solar PV in Scotland.

Background on situation in Scotland

A <u>Scottish Government consultation</u> in June 2015 on extending Permitted Development Rights for non-domestic roof-mounted solar (with no upper limit on array size) has seen the re-emergence of the issue of glint and glare after concerns expressed by airports, notably in responses from <u>Glasgow Airport</u> and <u>Glasgow Prestwick Airport</u>. The consultation seeks to remove the clause in the Town and Country Planning (General Permitted Development) (Non-Domestic Microgeneration) (Scotland) Amendment Order (<u>SSI 2011/136</u>) that "permitted development rights do not apply... within 3km of the perimeter of an aerodrome or technical site." This would level with domestic rooftop solar, for which permitted development rights exist with no requirement for prior approval next to airports and no reports of issues in Scotland or England. The airport responses note concerns over safeguarding against glint and glare, interference with Communications Navigational and Surveillance equipment, and infringement of obstacle limitation surfaces in aircraft flightpaths. However, while they cite aerodrome safeguarding legislation and Civil Aviation Publications (CAPs) they do not provide any factual or anecdotal evidence of solar causing problems. The Scottish Government has yet to issue a response to the consultation.

<u>Civil Aviation Authority (CAA) guidance issued in 2010</u> states that a developer should "provide safety assurance documentation regarding the full potential impact of the installation on aviation interests". This is something that at the moment can be requested by airports through the planning system, normally in the form of a risk assessment or glare assessment. We understand that the Civil Aviation Authority have argued that if this is removed then there will be no mechanism for airports to request developers fulfil safety requirements regarding glare, which could result in an accumulation of solar developments around an airport with a potential to cause glare.

Permitted development rights in England were extended to 1MW for solar PV in April 2015. The <u>Statutory Instrument</u> states that "development is permitted subject to the condition that before beginning the development the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the design or external appearance of the development, in particular the impact of glare on occupiers of neighbouring land." Therefore there is a pre-notification/prior-approval period — a form of 'planning-lite'. However developers and planning authorities have raised concerns that developers still have to submit broadly the same information, which often costs the same amount in terms of fees and planning authority resources and takes the same amount of time (6-7 weeks).

Legislation and guidance

Ultimately it is up to each planning and local authority to determine what is required in terms of an impact assessment and each authority has different requirements. There can be no requirement at all, a 'tick-box' exercise, or a more thorough assessment, for example: Infrastructure Planning SI (SI

1



2016/17) (The East Midlands Gateway Rail Freight Interchange and Highway Order 2016): "The prior approval of the airport operator (acting as the statutory aerodrome safeguarding authority) must be obtained by the undertaker for the installation of any solar photovoltaic panels or apparatus within the authorised development, such approval not to be unreasonably withheld or delayed. Any request for such approval must be accompanied by a full solar glare assessment and detailed risk assessment."

There are no EU provisions or requirements from the European Aviation Safety Agency (and none planned) concerning solar PV developments on or near aerodromes – therefore the expectation from CAA is that solar PV developments are managed by aerodromes in accordance with the well-established statutory safeguarding arrangements (together with local planning authorities, as required) in accordance with the <u>DfT/ODPM Circular 1/2003</u>.

There is various guidance available on the topic. The US Federal Aviation Authority (FAA) had <u>technical guidance</u>, which has directly informed the CAA's stance on solar PV around airports. However, this is due to be updated, with the following disclaimer on the cover: "the FAA is reviewing multiple sections... based on new information and field experience, particularly with respect to compatibility and glare... the FAA cautions users against relying solely on this document at this time. Users should refer instead to the Interim Policy." In sum, the FAA <u>interim policy</u> asserts that proposed solar developments on a federally-obligated aerodrome must undergo ocular impact assessments as outlined in the document and submit these to the FAA for approval. This is a precautionary measure based on the FAA's authority over airspace and construction on an aerodrome. Any solar developments next to or outside the aerodrome are not obligated to undergo assessments. The policy is due to be updated pending new evidence, overdue since 2013.

The CAA <u>interim guidance</u> follows suit: if the proposed solar development is 'on-aerodrome' then the process outlined in <u>CAP 791</u> must be followed. All of those that have made such an application to the CAA to date have been approved. If any aerodrome operator wishes to install solar PV outside of the licensed boundary (i.e. on the roofs of terminals or other buildings or adjacent land) then there is *no requirement* for the aerodrome operator or developer to consult *or* notify CAA, nor seek CAA approval. However, engagement with the aerodrome/developer is advised so as to ensure the relevant safety issues have been fully considered. The CAA guidance is due to be updated after the FAA update theirs.

Glint and glare

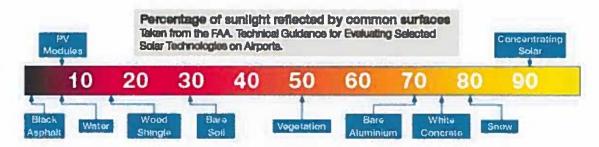
Glint and glare refers to light reflected off smooth surfaces, either momentarily and intense (glint) or less intense for a more sustained period (glare). This could potentially have an impact in two areas:

- Pilot distraction on take-off, landing or flight circuit
- 2. Air traffic controller distraction

The FAA guidance on this topic states: "solar PV employs glass panels that are designed to maximize absorption and minimize reflection to increase electricity production efficiency. To limit reflection, solar PV panels are constructed of dark, light-absorbing materials and covered with an anti-reflective coating. Today's panels reflect as little as 2% of the incoming sunlight." Evidence produced in the guidance shows that this is slightly more than black asphalt, about level with bodies of water, and much below bare soil, vegetation, rooftops, glass, snow or metal. However, the guidance finds that



"because the panels are a flat, polished surface, it is a reasonable assumption that most of the light is reflected in a specular way" different to a rough surface, potentially having an ocular impact.



(Diagram source)

Crucially, the FAA guidance finds that "solar installations are presently operating at a number of airports including megawatt-sized solar facilities covering multiple acres.... To date, there have been no serious complaints from pilots or air traffic control due to glare impacts from existing airport solar PV installations. Any potential problems in this area have apparently been resolved prior to construction through one or a combination of the strategies described above. The anecdotal evidence suggests that either significant glare is not occurring during times of operation or if glare is occurring, it is not a negative effect and is a minor part of the landscape to which pilots and tower personnel are exposed."

Pre-emptive and remedial strategies suggested by the FAA include:

- assessing baseline reflectivity conditions ("At airports, existing reflecting surfaces may include hangar roofs, surface parking, and glassy office buildings. To minimize unexpected glare, windows of air traffic control towers and airplane cockpits are coated with anti-reflective glazing and operators will wear polarized eye wear. Potential glare from solar panels should be viewed in this context.");
- tests in the field, i.e. moving, testing and altering the tilt of the panels ("For the two known cases where such a field test was conducted, the tower personnel determined that the effect of the glare produced by the solar panels was not significant");
- geometric analysis (similar to the glint and glare assessments widely used today).

Evidence gathered by the STA on glint and glare

As a starting point the STA contacted several experts in glint and glare analysis for solar around airports. This was then followed by a call for evidence (case studies) and further research specifically to find examples where glint and glare has caused a problem. There are hundreds, perhaps thousands of examples worldwide of solar PV installations operational on or around aerodromes. To demonstrate this a short list of examples of airports with large installations on aerodrome, next to runway or under flightpath is included below, which we believe to be only a small fraction of the total. However, while listing PV installations safely sited on or next to aerodromes adds to a growing list of anecdotal evidence to suggest glare is not a cause for concern, it is not a falsifiable test. This was the reason for searching for examples where glare from solar PV has caused a sustained issue.



Following our research we have found no examples of issues or sustained complaints arising on grounds of pilot distraction. This is demonstrable in the expert opinions and case studies below. We have found some evidence of complaints from air traffic controllers, one of these from an installation at Manchester-Boston regional airport, New Hampshire, USA. Air traffic controllers reported a patch of glare from panels for 45 minutes each morning, which was then resolved. No pilots or aircraft reported any issues with glare (link). Malcolm Spaven of Aviatica Ltd also suggested glare for air traffic controllers could potentially be a problem in some instances, but that this is easily remediable. See below for further information.

The other example we found was a solar array near Doncaster Sheffield Robin Hood Airport, which the airport opposed on several grounds including glare, specifically that PV would have an adverse impact on safety "through critical stage flight distraction or eye-damaging glare to air crews within aircraft operating in the vicinity." The array did not go ahead, though the local council's decision was based on concerns about potential impact on public rights of way close to the site: "The proposal fails to protect and enhance public rights of way or add additional links between Low Closes Turbary and the existing recreation network in Belton" (link). Another proposed installation near the flightpath of the Doncaster Sheffield Robin Hood Airport has been approved. The solar farm is now consented and operational (link).

Expert opinions

Below is a summary of conversations the Solar Trade Association has had with experts in this field.

Danny Scrivener, Technical Analyst, Pager Power Ltd - +44 (0)1787 319001

- Over 200 glint and glare assessments conducted for airports and developers c.20 of these have been commercial rooftop, the rest ground mount
- None have led to the solar development being refused.
- Circa 80% have been passed without any need to revisit proposals i.e. no risk of glare
- Circa 20% have needed revisiting, asking developer to consult airport on plans
- Maximum five projects have involved the airport asking the solar developer to revisit the scheme and work on the design. These projects have subsequently gone ahead, e.g. Hayle Farm and Woodtown Farm, a joint installation at the end of the runway of Bournemouth airport. Both installations completed in early 2016. The Sandia model for aviation glint and glare assessment was used. They altered the elevation angles to reduce impact.

Michael McGhee, Director, Neo Environmental - +44 (0)0141 773 6262

- Glint and glare assessments are currently required by the Planning Authority if the solar PV station is anywhere in the airfield/airport's safeguarded zone or within 30km of an airport.
- All Neo Environmental's glint and glare assessments have showed no problems so far. He also assesses impact on air traffic control and hasn't had any problems there so far.
- Within the safeguarded zone it is correct that buildings have to be within a certain height, so in theory CAA could have a concern with height but the reality is that the additional height from a solar PV station is so small it will never be a problem (more of a precautionary measure about an airport's authority on building in an airport's safeguarded zone).



Malcolm Spaven, Director, Aviatica Ltd - +44 (0)1875 830750

- There is no evidence that glint and glare is a significant issue for pilots and planes.
- Air traffic control towers with a solar PV installation to the North can reflect light towards controllers.
- A 3km exclusion zone is likely too excessive as it would exclude a lot of areas that would not
 pose any risk to the aerodrome.
- Glare can be mitigated by vegetation or slightly less reflective panels.
- Solar PV emits less glare than bodies of water, car windscreens and greenhouses.
- Spaven Consulting report: "No evidence could be found from existing solar energy projects around the world of any reported problems of glare affecting pilots. This includes many projects in the USA where the Federal Aviation Administration routinely assess such projects for potential glare impacts." (link)

Charles Morelli, Managing Director, AARDVaRC Ltd - +44 (0)1787 468539

- AARDVaRC has conducted 20 airport assessments and 50 non-airport assessments, solar PV has never been an issue and none of his findings have ever been challenged.
- Never seen a site refused planning permission due to glint and glare
- Never seen a sustained objection once the topic has been understood.
- He has seen instances of airports scaring off developers on grounds of glint and glare before
 assessments have been carried out. He feels this is a spillover of airports having had disputes
 with the wind industry.
- FAA guidance is originally based on evidence from studies conducted by the US Airforce on the effect of flash blindness on their pilots from nuclear flash. The guidance states that flash blindness can be caused at levels of 650-1,100 lumens/m², which on a quick internet search shows up as levels equivalent to "an overcast day; typical TV studio lighting" (link). According to AARDVaRC, the real problem with flash blindness is not the level of light itself, but on stepping quickly from areas of low light to high light without time for your eyes to tune (e.g. stepping from shadow directly into a bright light). From the perspective of a pilot, being in the open sky, unless an overcast day with shadow from cloud cover (and no sun), aircraft do not fly in shadow. If facing the sun, the lux from the direct sunlight will far outshine the lux from glare from PV panels (solar panels reflect 2% of light).

Case studies

Examples of airports with large installations on aerodrome, next to runway or under flightpath (this is based on a brief scoping exercise, and we believe the list to be a small fraction of the total):

- Gatwick (50kW 150m from runway)
- Heathrow floating array on Thames QEII reservoir (6.3MW under flightpath)
- Belfast International (4.8MW adjacent to airport)
- Stanstead airport (2.5MW)
- Photon Birmingham Airport (50kW on terminal)
- Southend Airport (120kW on terminal and <u>5MW</u> under landing flightpath)
- Birmingham Airport (50kW terminal roof)



- East Lanford, Cornwall (5MW)
- Dunsfold Aerodrome, Surrey (2MW)
- Cornwall Newquay airport (5MW)
- Prestwick airport (50kW)
- Manston Airport (large solar farm 1.2km from runway 28 threshold)
- San Francisco (0.5MW on terminal)
- Oakland (6000 panels on terminal)
- Denver (11MW)
- Boston
- Indianapolis (12.5MW)
- Fresno Yosemite Airport (2MW on site)
- Las Vegas
- Los Angeles
- Chattanooga Airport USA (5 acre array on aerodrome)
- Nellis Air Base Nevada (15MW)
- Kramer Junction, Victorville, CA, USA
- Blythe, CA, USA
- · Pena Boulevard, Colorado, USA
- Bakersfield, CA, USA
- Oakland Airport, CA, USA
- Albuquerque Airport, NM, USA
- Boston Logan Airport, MA, USA
- San Jose Airport, CA, USA
- Houston Airport, TX, USA
- Prescott Airport, AZ, USA
- Yuma Airport, AZ, USA
- Ben Gurion Airport, Israel
- Adelaide Airport, Australia
- Ancona Falconara Airport, Italy (45kW on roof surrounding control tower)
- Athens International in Athens, Greece (8MW on aerodrome)
- Cochin International Airport, India (12MW)
- Munich
- Saarbrucken, Germany (1.4MW)
- Zurich
- Changi
- Stuttgart

Non-glare issues arising from solar PV on and around airports

Blocking of flightpaths

The FAA technical guidance note says "due to its broad authority to protect airspace, the FAA must be given data to review any construction or alteration on a public use airport regardless of height or location". It then states "solar panels, when tilted properly to the south-facing sun, extend to a height



of as little as three feet above the ground making it possible for siting close to runways without penetrating an imaginary surface. The low profile of solar panels allows for greater flexibility in finding the most appropriate location on the airport for electricity generation." We understand this to mean authorisation is to be given as a precautionary measure, but solar generally does not interfere with airspace. Note also that the proposal from the Scottish Government is for roof-mounted solar, which on a pitched roof will add only a few inches to the roof height, and on a flat roof will add less than one metre without accounting for other objects on the roof. After our own research and asking experts in the industry we have found no examples of issues or complaints arising on these grounds. It is thought that complaints in this area are a consequence of disputes over wind energy.

Interference with communications equipment

The FAA technical guidance states that "studies conducted during project siting should identify the location of radar transmission and receiving facilities and other NAVAIDS, and determine locations that would not be suitable for structures based on their potential to either block, reflect, or disrupt radar signals. Due to their low profiles, however, solar PV systems typically represent little risk of interfering with radar transmissions. In addition, solar panels do not emit electromagnetic waves over distances that could interfere with radar signal transmissions, and any electrical facilities that do carry concentrated current are buried beneath the ground and away from any signal transmission." After our own research and asking experts in the industry we have found no examples of issues or complaints arising on these grounds. It is thought that complaints in this area are a consequence of disputes over wind energy.

Conclusions

The STA is not an expert in either aviation or glint and glare. This paper is only intended as a basic summary of the evidence available, and further work could be done to investigate the issue. However, from the evidence we have seen so far the STA does not believe that there is cause for concern in relation to the impact of glint and glare from solar PV on aviation and airports, nor relating to infringement on airspace or interference with communications equipment. Solar PV panels are designed to absorb not reflect light, and their level of reflectivity is lower than that of other objects commonly visible on and around aerodromes, e.g. metal roofs, glass windows, cars, and bodies of water. Permitted development rights already exist for domestic roof-mounted PV adjacent to airports, with no reported issues, although these are much smaller sized systems. Under Article 221 of the Air Navigation Order a mechanism exists to address glare post hoc if it emerges as a problem.

Further Resources

BRE National Solar Centre 'Planning guidance for the development of large scale ground mounted solar PV systems' (<u>link</u>)

South Somerset Council Planning: "As stated previously, photovoltaic panels are designed to absorb light and not to reflect it. They have a smooth surface, however, which means that incident light from a specific direction is reradiated in a specific direction. This means that photovoltaic panels can cause reflections which are considerably less intense than direct sunlight. Photovoltaic panels typically reflect 2% of incident light." (link) I.e. generally, it is rare for aircraft to fly through areas of glint, due to



the specific angles needed from the sunlight. Where it does occur it is much less intense than direct sunlight.

Other contacts: Steve Pester, Principal Consultant, <u>BRE National Solar Centre</u>, +44 (0) 1923 664 729; Adrian Lea, Technical Director, <u>Wardell Armstrong</u> (based in Cornwall) +44 (0)1872 560738; Dujon Goncalves-Collins, Director of Policy – Technologies, <u>RenewableUK</u> +44 (0)20 7901 3049.

Planners: <u>LDA Design</u>, <u>Pegsus</u>, <u>Savills</u>, <u>Parker Dann</u>

APPLICATION NO: 2017-39

APPLICATION FOR CONDITIONAL USE

MANGILAO SOLAR PLANT PHOTOVOLTAIC FACILITY

LOT 1, TRACT 1541, SASAYJAN MUNICIPALITY OF MANGILAO, GUAM

PUBLIC HEARING REPLY & RESPONSES WITH ATTACHMENTS

01 DECEMBER 2017

PREPARED BY:
TG ENGINEERS, PC

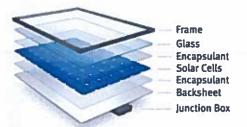
December 1, 2017

ISSUES & COMMENTS FOR PUBLIC HEARING

Public Hearing Issues & Comments by KEPCO-LG CNS

- 1.0 Is the transmission line UG or OH?
 The planned transmission interconnection line from Mangilao to Pagat Substations will be a combination of overhead and underground configurations.
- 2.0 Who will maintain the transmission line after construction?

 GPA will gain tittle in fee simple for the new transmission interconnection line. Once they received title, GPA will be responsible for the maintenance of the line.
- 3.0 Is there silicon dust in the panels, or other toxic or hazardous materials that might leak onto the ground if panels are damaged or broken in typhoons or other scenarios?



LG Electronics module have shown any detection of any heavy metals materials as a result of water elusion test conducted by KOREA TESTING & RESEARCH INSTITUTE, and it shows all test items satisfy the standard

(Refer to attachment #1). Also, LG CNS constructed a floating solar plant on irrigation reservoir, and all materials are proved to be

harmless to environment.

As for the solar module, as shown in the figure on the left, the solar cells which contain silicon, are encapsulated and protected by several layers. The LG module is designed to hold up to 5400Pa using tempered glass, which can withstand weight of 550kg / m2. So there is a remote probability that modules can be completely broken.

In the case of other projects built by LG CNS, modules were not completely broken. Mostly, the frame or glass was slightly cracked, but modules are mounted on the fixed structure, so no materials in module was leaked from inside.

Silicon, which is the main material of a solar cell, is already proven to be harmless to human body as it is already used in beauty/cosmetic industry and other similar applications.

- 4.0 Government has promised utility services in the past but so far broken promises. It is GPA's duty. Therefore, we think GPA should answer to neighbors.
- 5.0 Why was power infrastructure never put in place?

 There are service rules for development of infrastructure and unfortunately, there were not enough customers in this area to justify building power infrastructure.
- 6.0 Who is the owner of the property? KEPCO & LG CNS Consortium.
- 7.0 Dumpsite comment caused a reaction.
 KEPCO & LG CNS will clean trash dumped around the plant site and transmission line route.

- 8.0 Marcel Camacho notes he brought LG to Guam.

 Marcel Camacho has worked with LG Chem, which is a subsidiary company and Battery
 Supplier for this project. But LG Chem is a separate company from LG CNS and there is no
 relationship to Marcel Camacho.
- 9.0 What is the status of the contract protest?
 It is still under OPA review. We will update the information after the decision.
- 10.0 What will happen to the site at the end of the 25-year contract term? How is the contract completion regulated?

 We may extend PPA up to 5 years or decommission the plant.
- Are there any invisible negative impacts for neighbors on adjacent properties? Such as 11.0 radiation or other negative health impacts from a solar farm operation? The electricity generated by the module in a solar power plant is DC. DC (Direct current) flows without wave generation, cause no electromagnetic waves. But some devices may cause electromagnetic wave while converting DC to AC and transmitting AC current to the grid. According to the results of the research conducted by the National Institute of Radiological Research ("Measurement of exposure of electromagnetic wave generated from solar power facility"), the electromagnetic wave generated from the solar plant facilities measured is much less than electromagnetic wave protection standard-1 / 500th of the electric field 87 (V / m) and to 1/1000th of the magnetic field 62.5 (mG). Therefore the human body is barely influenced by electromagnetic waves. It is also less than electromagnetic waves generated by most household appliances. (The notebook is 30.19V / m, 0.72mG and the fan is about 9.01V / m, 0.07mG.) With regard to negative impacts to neighboring landowners, TGE has responded it will be utilized the natural jungle and vegetation along the project perimeter to lessen the visual impacts to neighbors. TGE has planned landscaping as well to mitigate view shed natural shrubs and small trees.

What are the batteries made from and are they safe? Is it possible the batteries will explode? Refer to Attachment #2.

- 12.0 Is it possible the batteries or panels might get damaged and leak toxic materials onto the site? Refer to Attachment #2.
- 13.0 How will the panels be disposed during operations or at the end of 25-years? Currently, LG CNS plans to demolish the power plant after 25 years of operation. Modules shall be disposed of on Guam at an approved and permitted landfill. Structures will be removed and recycled. The battery will be collected back to Korea, and the structure will be removed and recycled.
- 14.0 What are the typhoon and earthquake mitigation plans?

 TGE has responded the PV solar facility is designed to current building codes and standards. These codes specify 170 mph wind speed and zone 4 earthquake requirements. However, LG CNS has increased the wind speed design criteria to meet 176 mph for this project. It may be envisioned that test-piles may be installed to determine the true strength of the PV structure under extreme typhoon conditions as a form of mitigation. Additionally, the design of the PV module rack structure is such that it is quite low to ground.

- Do you have any information with you today that proves there are no negative health effects?

 Refer to Attachment #1 and #2. And, as we answered Question #3, the main material of a solar cell, is already proven to be harmless to humans as it is already used in beauty/cosmetic field and so on.
- 16.0 What is the possibility of leakage from the batteries going into the ground? I have looked at disadvantages to solar power and there aren't a lot, but one concern is of the material that is being used (since all materials have a life span).
 Refer to Attachment #1 and #2. And, Module the supplier (LG Electronics) provides a 25 year product warranty. Therefore, KEPCO-LG CNS are not aware there is a statute of limitation if contaminates are released from panels and batteries during the contract term.
- 17.0 What is the mitigation procedure for typhoons / earthquakes?

 The engineering design will meet all local codes and standards—to include 176 MPH winds, and (category) 4 seismic activity—all plans, specifications and drawings will be stamped by local registered engineers. This criteria is greater than IBC 2009 adopted by the Government of Guam for building codes.
- 18.0 What will happen if there is damage to the materials? How will materials and panels be disposed of?
 Any and all materials shall be properly disposed of at an approved and permitted landfill, salvage yard, or off island facility.
- 19.0 What types of chemicals comes from these materials? How do they affect the environment? Will they affect the water wells?

 Refer to Attachment #1, #2 and the answer to Question #3. Therefore, KEPCO-LG CNS are not aware there is a statute of limitation if contaminates are released from panels and batteries during the contract term.
- 20.0 What is the panel material lifespan?

 Module supplier (LG Electronics) provides 25 year product warranty. And we regard it as a panel lifespan.
- 21.0 What is the EPA involvement in the project?

 EPA involvement in this project is to review and approval engineering designs to ensure the project, once completed, will meet all local and federal codes. And also, at # 3, # 10, and # 11, there are no possibility of chemical leaks of PV and batteries.
- 22.0 What is the statute of limitations if contamination from panels appears later?

 KEPCO-LG CNS are not aware there is a statute of limitation if contaminates are released from panels during the contract term. Local and federal regulations will dictate how these cases are adjudicated in the future.
- 23.0 What is the storm water management plan?

 TGE has designed a storm water plan that meets all local codes and standards. The key elements of the plan include swales, rip-rap and check-rock dams, and ponding basins to control and manage storm water onsite. These systems follow engineering best practice means and methods for implementation.

- 24.0 The Conditional Use approval status must meet the following.
 - Health
 - Welfare
 - Safety

The project complies with GLUC requirements and information necessary for GLUC commissioners to make informed decisions. The general public also has been invited to review the information as part of the application process. KEPCO-LG CNS does not believe in its professional opinion Health, Welfare and Safety are in any way jeopardized.

- 25.0 In the GPA letter (?) it mentions Health and Welfare but not Safety?

 GPA's letter was in support of this project since they are the source of this formal tender.

 GPA has neither expressed any negative issues to the applicant nor to the public regarding any safety issues. And, we will design and construct the solar farm in compliance with safety-related regulations.
- 26.0 Is there a back up plan for dealing with emergencies? Emergency plans will have to be available in order for an occupancy permit to be approved by DPW with approvals by agencies such as the Guam Fire Department and Guam EPA. These plans will be developed as part of the Operations & Maintenance phase of the contract.
- 27.0 The solar facility development is not compatible with other nearby development. We believe this is one of the best choices given the history of the property and lack of development over the past three decades.
- 28.0 The GLUC is the final Land Use vote for the project approval.
 Under current DLM rules and regulations, GLUC has the authority to render a final decision regarding the Conditional Use Permit.
- 29.0 If Kin had family property at Sasajyan would he still be in favor of the project?

 Kin Flores clearly declined to comment because his role as Project Director for the applicant.
- 30.0 The Perez Grandmother sold the property for a golf course development.

 Past agreements regarding the use of land were neither known to TGE/KEPCO-LG CNS nor are they an obligation for future owners to be obliged to honor. KEPCO-LG CNS has procured this project site from the latest landowner without any covenant agreements that TGE is aware of.
- 31.0 A solar (Industrial) facility is not the best use of the property; it should be for tourism development.
 TGE has confirmed the current property is zoned Agricultural which is not designated for high density or hotel zones typical to a tourist district. As current owners of the property, KEPCO-LG CNS has decided the best and right use for the site is for the implementation of a solar facility. KEPCO-LG CNS does not consider this as an industrial utility facility but more a passive site with minimum impact to traffic, utilities, noise and or any air or water emissions.

- 32.0 What are the solar panel effects on birds?
 - KEPCO has started operating a solar farm adjacent to an airport in Hokkaido, Japan. To date, there are no issues related to airplanes as well as birds. And, TGE has conducted Biological Surveys on site and has determined no listed plants or animal species will be impacted. It is unclear what will be the indirect impact to birds once the site is cleared. TGE team biologist believes there is much better habitat from the current project site for which birds will continue to forage and proliferate.
- Are other solar projects by LG close to residential neighborhoods?

 LG have several references of PV plants constructed near residential areas. In 'Solar land' project, modules are installed above market buildings. In 'Skovelevo solar plant' project, there are large residential areas about 1km from the plant. Other projects such as Yeosu EXPO plant, Incheon North port solar plant are also successfully constructed in residential area. And we have constructed also several floating solar plants in an irrigation reservoir and on a small island, indicating solar plants are environmental-friendly.

	Project Description	Place	Photo
1	- Project Name: Solar land - Capacity: 2.5MW - Completion Date: 2014/05/09 - Type: Rooftop	Residential area, Korea	
2	- Project Name: Skovelevo solar plant - Capacity: 5MW - Completion Date: 2012/06/30 - Type: Ground fixed	Residential area, Bulgaria	
3	- Project Name: Yeosu EXPO plant - Capacity: 2.5MW - Completion Date: 2012/04/10 - Type: Ground fixed	Residential & Port area, Korea	
4	- Project Name: Incheon North port solar plant - Capacity: 3MW - Completion Date: 2014/05/12 - Type: Rooftop	Residential & Port area, Korea	

5	- Project Name: Fish Island solar plant - Capacity: 3MW - Completion Date: 2014/05/09 - Type: Ground fixed	Island area, Korea	
6	- Project Name: Sangju floating solar plant - Capacity: 6MW - Completion Date: 2015/06/30 - Type: Floating System	In irrigation reservoir, Korea	

- 34.0 Is it safe to put 34.5kV lines overhead?

 TGE is designing overhead and underground transmission interconnections that meet all codes and standards. GPA will also review and approve TGE designs before installation and acquiring custody of the line.
- 35.0 Construction phase traffic is a concern; there will be many deliveries for 230k panels, etc. The materials and equipment to be transported to site will not be delivered at once. It will be delivered on a staggered basis according to the project schedule. So, we expect that it will not cause traffic disruption. But, in order to minimize traffic disruption that may occur, we will deliver the materials and equipment in a time when traffic volume is low. And, we will arrange the person who controls safety during transportation to minimize traffic disruption. If it is necessary, we will support the delivery schedule.
- 36.0 The access road condition must be maintained.

 LG CNS is committed to repair any damage to the road it is directly responsible for. This road is under the jurisdiction of DPW and ultimately they retain jurisdiction and responsibility for maintenance.
- 37.0 Does LG have a Real Estate development division? Could they reconsider this property for a resort development and put the solar facility in another location? Maybe on Gov. Guam land?
 Unfortunately this is not possible. The property proposed for this project was part of a formal tender submitted to GPA. Changing the project site will result in a material change to LG's formal proposal than may disqualify LG from proceeding with a contract award.
- 38.0 Endangered snails and butterflies have been found and documented on adjacent property. What will be the protection plan?

It is worthy to note, TGE and its Biological team consultant early in the project planning stages and siting considerations screened the site for environmental constraints and decided in part to locate the facility footprint away from more rugged karst limestone forest topography at the north end of the property (vicinity of Marbo cave) in order to avoid habitat that had a greater potential for presence of listed species.

The same planning effort and avoidance strategy was used actually along the coastline but as we discussed more for reasons of historic cultural resource concerns.

Evaluation of potential for impacts to the two (2) federally endangered butterflies resulting from the proposed construction of solar energy facility at Marbo.

Mariana wandering butterfly (Vagrans egistina)

Host Plant:

Host Plant habitat:

Native Maytenus thompsonii
Primary and secondary forest

Number of host plants recorded: Four (4)
Number of Vagrans egistina recorded: None

Summary of Anticipated Impacts

Vagrans egistina has not been recorded on Guam since 1979 (USWFS Undated). No adult specimens, eggs, larvae or pupae were observed during surveys of the subject site. Host plants were recorded in four locations. Host plants are considered fairly common, therefore it is thought that this butterfly species has disappeared for reasons unrelated to host plant availability (Lindstrom and Benedict 2014). Given this butterfly has not been recorded for 38 years and is considered extirpated on Guam, the proposed project will have no direct or indirect impact upon Vagrans egistina.

Mariana eight-spot butterfly (Hypolimnas octocula marianensis)

Host Plants:
Natives Procris pedunculata, Elatostema calcareum
Host Plant habitat:
Moist primary limestone forest featuring high relief

karst

Number of host plants recorded: None

Number of H. octocula marianensis recorded: None

Summary of Anticipated Impacts

No Hypolimnas octocula marianensis eggs, larvae, pupae or adults were observed during surveys of the subject site. No host plants were recorded. The specialized habitat where the two host plants are most commonly found, moist primary forest with steep and rugged karst features inaccessible to ungulates (Lindstrom and Benedict 2014), was not encountered on survey transects. The butterfly was purportedly recorded on a neighboring property across the main access road from the subject site. While the date and exact location of this siting is not known at this time, areas fitting this description would likely be closer to the toe of the cliff line to the north and east where more rugged limestone habitat occurs.

The abundance of ungulates present together with historical human disturbances to include clearing, grading (US military, SOHBU Resort and recent housing developer), burning and farming/ranching documented in a Phase I Environmental Site Assessment by ARC Environmental Services (2017) completed for the project, may have altered conditions resulting in the absence of host plants and habitat that might have been present historically. The documented close association between H. octocula marianensis, its host plants and the limited specialized habitat that they are found within, is known to be a vulnerability affecting their survival and a key conservation consideration (Shreiner and Nafus 1997).

While the little is known about the two (2) host plants abundance island wide, they are considered to be uncommon in their range and vulnerable to ungulate grazing (USFWS 2013). Given the absence of host plants and specialized karst forest habitat within the project footprint, and the availability of undisturbed, suitable habitat along the surrounding embayment and coastline, it is anticipated that the proposed project to construct a solar energy facility will have no significant direct or indirect impacts upon H. octocula marianensis.

References

ARC Environmental Services. Phase I Environmental Site Assessment Lot No. 1 TRACT 1541 Mangilao. Final Report 2017.

Lindstrom, D. P. and J. C. Benedict. 2014. Final Project Report Federal Candidate Species Surveys on Guam. College of Natural and Applied Sciences, University of Guam Mangilao.

Shreiner, I. and D. Nafus. 1997. Butterflies of Micronesia. Agricultural Experiment Station, College of Agriculture and Life Sciences, University of Guam Mangilao.

USFWS. 2013. U.S. Fish and Wildlife Service Species Assessment and Listing Priority Assignment Form. USFWS. Undated. Final Mariana Wandering Butterfly Poster.

- 39.0 Is there any impact to existing ROW and access roads, for example to the Marbo Cave area?
 TGE has confirmed that all Rights-of-Ways, easements and access to shorelines have been protected and preserved. And, Doc. 912246 dated Sep. 12, 2017 shows public access to Marbo cave.
- 40.0 There is a 12" water line has the water line been charged?

 TGE has knowledge of this line being used for construction purposes in the past. TGE cannot confirm what is the operating status of the line.
- 41.0 We have a 2" line extended to the right of the intersection.

 TGE has not formally conducted surveys of existing underground utilities and we cannot confirm this line exists.
- 42.0 Will the Marbo cave area be kept open for public use?

 TGE has indicated Marbo Cave is not part of the project property—it is owned by others.

 The project however, protects and preserves existing easements and ROW to the Marbo Cave area. And, Doc. 912246 dated Sep. 12, 2017 shows public access to Marbo cave.
- 43.0 What are the advantages / disadvantages to OH and UG transmission lines, why not put the new lines underground?

 Although the underground lines are better than overhead lines for their reliability, overhead lines are less expensive (which would impact GPA's LEAC positively) and easier to inspect, repair and maintain than underground lines. Also, our interconnection configuration has been carefully reviewed by Guam Power Authority and we believe mixing underground and overhead lines is the most efficient method for GPA and the people of Guam.
- 44.0 Are there any safety issues with the connection of this facility to the GPA grid?

 The 3rd party expert has been conducting system impact study regarding the connection of our solar farm to the GPA grid, and we will design and construct the solar farm in compliance with the result of the study and other applicable regulations.
- 45.0 The current plan has 8-containers of batteries and approx. 230k panels to be installed at the site.
 The project design will house the battery modules indoors and no containers will be used.

Approximately 221,760 PV modules (panels) currently are estimated for implementation.

- 46.0 How are the batteries monitored and what is the response time if there are operations problems at the site?

 Since it is detected by an electric signal, when a problem occurs, the cutoff measure will be made from several mili-seconds to several tens of mili-seconds. Please refer to Attachment #3 of the monitoring system for Batteries and PV modules.
- 47.0 How are the panels maintained, cleaned? Will there be chemicals used for maintenance? Basically, modules are cleaned naturally by precipitation. IT is planned to conduct cleaning works 1-2 times a year in the dry season. Fresh water and no chemical materials will be used for cleaning.
- What is the liquid volume needed for cleaning?
 We assume four (4) 20-ton sprinkler trucks are required for cleaning the solar plant (0.35L per module).
- 49.0 How many jobs will be created by the project?

 LG CNS expects to employ about 250 people in the construction phase and about 10 people in the O & M phase.
- 50.0 Will there be a fence at the property perimeter? Yes. Perimeter fencing will be installed.
- 51.0 Can power be supplied to the neighbors? PPA only allows us to sell the power to GPA.
- 52.0 There used to be sanitary sewer in the valley from the US Navy.

 The project site will not use the Navy sanitary sewer system. This is a Navy system and that is not typically available for civilian use. TGE is aware the Navy sewer system has been out of service for many years and it may be in disrepair.
- 53.0 What will be the benefit to the community?

 In the case of power supply for neighbors, in principal, it is the duty of the GPA. And, this solar project provides benefits to the entire island of Guam through GPA. It will help provide annual saving of more the \$35M in the first five years. GPA has predicted this will hedge against rising fuel oil prices in the future and help all residence of Guam reduce their cost of energy. Nevertheless, of course, we should discuss with the GPA at first, but KEPCO-LG CNS hopes that the Mayor of Mangilao collects the opinions of the neighbors about the range and level of the specific power supply they want, and we will do our best and make the most possible ways for cooperation with the community.
- 54.0 The CCU article recently in the news discussed the GPA cost savings but it seemed negligible compared to the revenue by KEPCO LG over 25-years.

 GPA has presented there is a net present value (that is over the 25-year term of this contract) the savings far outweigh the costs to ratepayers.
- 55.0 The contract protest is pending a decision by the OPA.

 It is still under OPA review. We will update the information after the decision.
- 56.0 Is the sign properly updated with all GLUC application info? Yes.

- 57.0 What law / code allows "industrial" use for power in an "A" zone?

 DLM has quoted under Conditional Use for an A-Zone, solar facility is determined to be under utility use and therefore it qualifies under current land uses regulations.
- 58.0 Is solar power generation classified as a "Utility"? Yes.
- 59.0 The project benefits have been explained but there is no negative impact identified?

 The project provides the best and right choice for land used overall. Any positive benefits far out way negative impacts due to construction. For example, TGE has considered:
 - Mitigating view shed issues by using the natural topographic of the site and designing low profile solar panels
 - Perimeter fencing will also be colored keyed to match surrounding vegetation
 - Landscaping along perimeter fence will also use native plants to mitigate view shed issues.
 - Existing dense jungle will be maintained; again to mitigate any view shed issues.
 - Clearing & grading of existing vegetation will be mulched to distribute to farmers and or green-waste landfill to help avoid proliferation of invasive species such as the rhino beetle or the fire ant.
 - Archaeological Monitoring Plan has been approved by Guam State Historical Preservation
 Office (GSHPO) to monitor any construction activity for cultural deposits, categorize them
 to determine how they will be documented and treated.
 - Biological surveys have determined no listed plants or animals are affected,
 - Illegal dumping of solid waste and garbage will be disposed of at approved and permitted landfill.
- 60.0 What is the project impact on adjacent land values?

 TGE has retained the expertise to assess the impact of land values of the adjacent properties due to the development. This study will be made available to the GLUC prior to its public hearing for its review once completed.

ATTACHMENT #1

Zip Code 46762 5, MyongJiOceanCity-9ro, Gangseogu, Busan, Korea TET(051)464-0771 FAX(051)462-2115

Test completion Date : June 14, 2017

Receipt Date: May 17, 2017

Test Report No : TAP-010878

Representative : Cho SungJin, Jung DoHyun

Company LG Electronics Inc.

Address: 128, Yeoui-daero, Yeongdeungpo-gu, Seoul, Korea

Name of sample : PV Module(LGxxxN2W-A5)

		E(LGXXXIV2VV-AJ)	Test Result	
Test Item	Unit	Sample classification	Results	Test Method
flavor	-	-	O.K.	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No. 2015-103)
smell	-	-	ОК.	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)
chromatility	degree	-	Below 0.1	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No 2015-103)
turbidity	NTU	-	0.05	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)
Arsenic	mg/L	•	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)
cadmium	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)

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Technical Director: Kim Jaehong Tel: 1577-0091(AR\$ ⊕->④)

June 14, 2017

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Company LG Electronics Inc.

Address 128, Yeoui-daero, Yeongdeungpo-gu, Seoul, Korea

Receipt Date: May 17, 2017

Test completion Date: June 14, 2017

Name of sample : PV Module(LGxxxN2W-A5)

		IE(LUXXXIVZVV AD)	Test Result	- 1
Test Item	Unit	Sample classification	Results	Test Method
Cr ⁶ *	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)
Cu	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)
Pb	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)
Se	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)
Zn	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)
Fe	mg/L	- 43	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)

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June 14, 2017

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TÉT(051)464-0771 FAX(051)462-2115

Test Report No: TAP-010878

Representative Cho SungJin, Jung DoHyun

Company LG Electronics Inc.

Address : 128, Yeoui-daero, Yeongdeungpo-gu, Seoul, Korea

Receipt Date : May 17, 2017

Test completion Date: June 14, 2017

Name of sample : PV Module(LGxxxN2W-A5)

70			Test Result	
Test Item	Unit	Sample classification	Results	Test Method
Hg	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)
Mn	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)
Na	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products 2015(Ministry of Environment Notice No. 2015-103)
1,2- dichloroethane	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No. 2015-103)
1,2- dichloroethylene	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No 2015-103)
1,2- trichloroethane	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No 2015-103)

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June 14, 2017

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Representative : Cho SungJin, Jung DoHyun

Company : LG Electronics Inc.

Address: 128, Yeoui-daero, Yeongdeungpo-gu, Seoul, Korea

Name of sample: PV Module(LGxxxN2W-A5)

			Test Result	
Test Item	Unit	Sample classification	Results	Test Method
Trichloroethylene	mg/L		Non-detection	Process test method for Hygienic safety standards of water-based materials and products 2015(Ministry of Environment Notice No 2015-103)
Benzene	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products 2015(Ministry of Environment Notice No 2015-103)
1,1.1- trichloroethane	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products 2015(Ministry of Environment Notice No 2015-103)
dichloromethane	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products : 2015(Ministry of Environment Notice No.2015-103)
cis-1,2- dichloroethylene	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)
tetrachloroethylene	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)

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Receipt Date: May 17, 2017 Test completion Date: June 14, 2017

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Name of sample : PV Module(LGxxxN2W-A5)

Receipt Date : May 17, 2017 Test completion Date : June 14, 2017

			Test Result	
Test Item	Unit	Sample classification	Results	Test Method
epichlorohydrin	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)
vinyl acetate	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)
Styrene	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)
1,2-butadiene	mg/L	•	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)
1,3-butadiene	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)
N,N- dimethylaniline	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)

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June 14, 2017

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Zip Code 46762 5, MyongJiOceanCity-9ro, Gangseogu, Busan, Korea TET(051)464-0771 FAX(051)462-2115

Test Report No: TAP-010878

Representative: Cho SungJin, Jung DoHyun

Company: LG Electronics Inc.

Address : 128, Yeoui-daero, Yeongdeungpo-gu, Seoul, Korea

Name of sample: PV Module(LGxxxN2W-A5)

		LGXXXIVZVV-AD)	Test Result	
Test Item	Unit	Sample classification	Results	Test Method
carbon tetrachloride	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products (2015(Ministry of Environment Notice No.2015-103)
phenols	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products : 2015(Ministry of Environment Notice No.2015-103)
cyan	mg/L	•	Non-detection	Process test method for Hygienic safety standards of water-based materials and products : 2015(Ministry of Environment Notice No.2015-103)
fluorine	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products : 2015(Ministry of Environment Notice No.2015-103)
formaldehyde	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products : 2015(Ministry of Environment Notice No.2015-103)
potassium permanganate consumption	mg/L	-	Below 0.3	Process test method for Hygienic safety standards of water-based materials and products : 2015(Ministry of Environment Notice No.2015-103)

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Receipt Date: May 17, 2017

Test completion Date : June 14, 2017

June 14, 2017

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Zip Code 46762 5, MyongJiOceanCity-9ro, Gangseogu, Busan, Korea

TET(051)464-0771 FAX(051)462-2115

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Representative : Cho SungJin, Jung DoHyun

Company : LG Electronics Inc.

Address : 128, Yeoui-daero, Yeongdeungpo-gu, Seoul, Korea

Receipt Date: May 17, 2017

Test completion Date: June 14, 2017

Name of sample : PV Module(LGxxxN2W-A5)

	_		Test Result	
Test Item	Unit	Sample classification	Results	Test Method
2,4- Diaminotoluene	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products : 2015(Ministry of Environment Notice No.2015-103)
2,6- Diaminotoluene	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)
nitric nitrogen, nitrite nitrogen	mg/L		Non-detection	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)
anionic surfactant	mg/L	•	Non-detection	Process test method for Hygienic safety standards of water-based materials and products : 2015(Ministry of Environment Notice No.2015-103)
chloride ion	mg/L	-	Non-detection	Process test method for Hygienic safety standards of water-based materials and products : 2015(Ministry of Environment Notice No.2015-103)
evaporation residue	mg/L	-	15	Process test method for Hygienic safety standards of water-based materials and products : 2015(Ministry of Environment Notice No.2015-103)

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Company : LG Electronics Inc.

Address 128, Yeoui-daero, Yeongdeungpo-gu, Seoul, Korea

Name of sample PV Module(LGxxxN2W-A5)

			Test Result	
Test Item	Unit	Sample classification	Results	Test Method
residual chlorine	mg/L	-	0.20	Process test method for Hygienic safety standards of water-based materials and products: 2015(Ministry of Environment Notice No.2015-103)

Contact area: Above 50 cm² /L

Remark: 1. This test report is a test result of the sample and the sample name presented by the applicant and does not guarantee the quality of the whole product. Verification of the report can be confirmed by the homepage(www.ktr.or.kr) or QR code.

- 2. This test report can not be used for publicity, propaganda, advertising, litigation, etc.
- 3. This report is only valid for original (including certified copy), and copies and electronic copies / file are for reference only

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June 14, 2017

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^{*} Purpose : For Quality management

ATTACHMENT #2

4. Safety

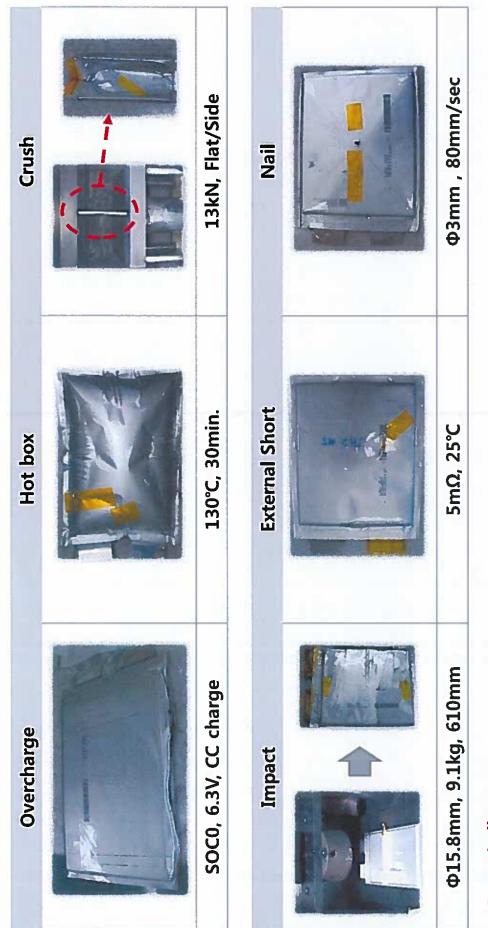
LGC acquired international certificates(UL, CE, UN/DOT) as well as local certificates (SBA)

ru)	5.0V irge	i.			G U	Φ3, 80mm/sec
(Japan)	SOC0, 5.0V CC charge	85°C, 180min.	•	E	30mΩ, 25°C	•
UN 38.3 (USA)	Ę		,	Ф15.8mm, 9.1kg, 610mm	80mΩ, 55°C	,
UL 1642 (USA)	•	130°C, 10min.	13kN, Flat/Side	Φ15.	80mΩ, 20/55°C	1
IEC 62133 (Europe)		130°C, 30min.	13kN, Flat		80mΩ, 10/45°C	11
Standard (Nation)	Overcharge	Hot box	Crush	Impact	External Short	Nail

Neither fire nor explosion under the test condition above.

Cell Safety

No fire or explosion throughout all safety tests



Passed all tests

4. Safety

4-3. Module Safety

LGC's UPB4860 passed and acquired all international safety certificates

J	CONTRACTOR AND ANIHOREARDY IN CAPACITIE M. MACH. CONTRACTOR CON
CE (UPB4860)	CERTIFICATE No. 2146 1445 197
CE (Rack System)	CERTIFICATE The 21's of board one Herican of Certification: Linear
UN DOT	Confirmed at colorent trees In 12-12-12-12-12, Lee 15-43 and 12-13 In 12-12-12-12, Lee 12-13 In 12-12-12-13 In 12-12-12-12 In 12-12-12 In 12-12-12

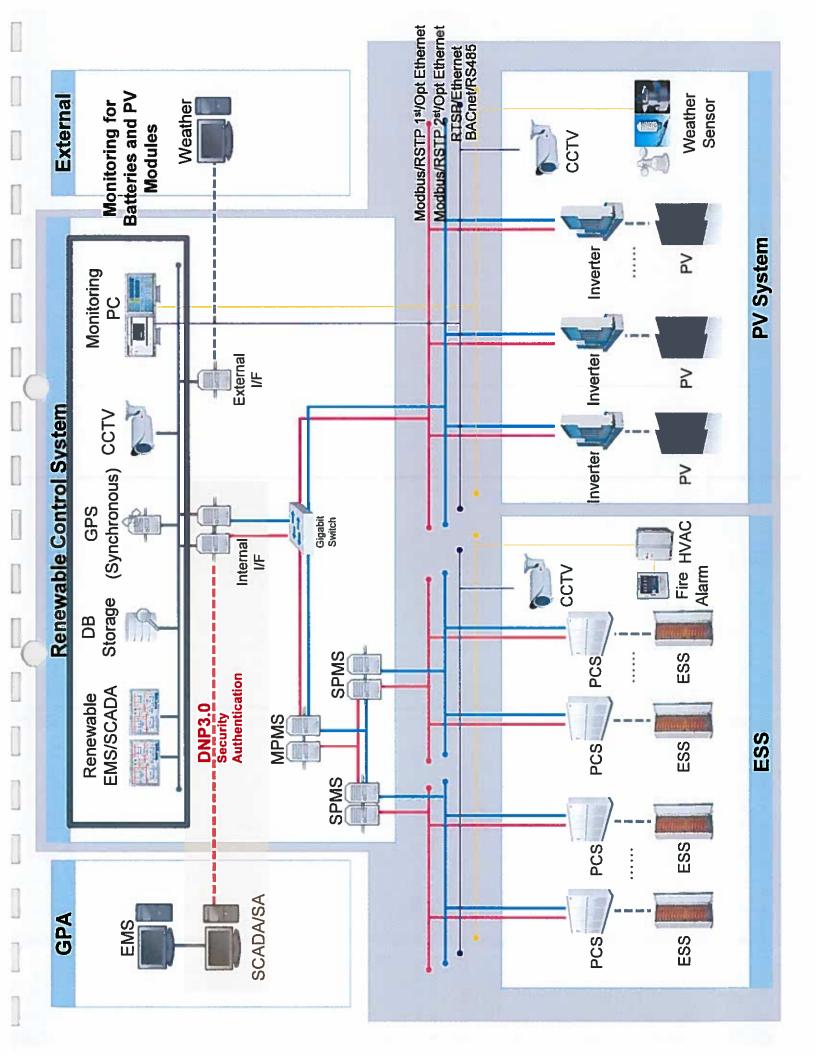


Module Safety

No fire or explosion throughout all safety tests



ATTACHMENT #3



Marcel G. Camacho P.O. Box 11194 Tamuning, GU 96931

December 14, 2017

Mr. John Arroyo Chairman, GLUC % DLM PO Box 2950 Hagatna, GU 96932

Reference: GLUC Application No. 2017-39

Hafa Adai Mr. Chairman:

Thank you for the opportunity to submit this testimony. As the great grandson of Marcelo Sgambelluri, my namesake and the owner of the entire Sasajyan valley at one point in time, and now an adjacent property owner of the proposed development, I am compelled to speak out on the issue at hand.

I want to share for the record also that I was instrumental in introducing both KEPCO and LG CNS to GPA, and I am not against renewable energy as a solution to reduce reliance on fossil fuels, to protect the ozone layer, and to help Guam to come into compliance with the clean air act and eliminate the \$38,000.00 per day per generator for each of the 19 generators that GPA is running.

As the Chief of Professional and Development Planning for the premiere Engineering firm in Micronesia who represented major developers through the GLUC process, I can empathize with the challenges you face as you deliberate what is in the best interest of the neighbors of proposed development projects, and the applicants intention.

Also, as the facilitator of the development of the master plan for Guam (I Tano'-ta) and as a Guam Senator who had oversight of the land, agriculture, and housing agencies, I feel uniquely qualified to present a balanced position on any and all applications before this body, including this one.

From a technical standpoint, I want to ensure that this Super Major project, proposed for at least 25 years, and potentially continuing thereafter under GPA's Management, on 300 acres of a very beautiful and pristine valley of the North-East Coast of Guam, is in the best interest of the public's health, safety, and welfare, as required by law.

And because this is such a large project, I beg for the Commissions patience as we try to understand all the technical information presented to us as laymen, and the position of each government entity that is required to submit a statement through the application review committee (ARC) process.

As a matter of fact, I would like to insist that each ARC member be present to explain their technical analysis of the application, and allow us to ask questions. Those who have not submitted a position should be subpoenaed to show up for questioning.

Again, a super major industrial use project of this magnitude should not be taken likely, because we as concerned citizens expect nothing less of our appointed officials.

The sooner we can reach a meeting of the minds, the sooner you all can move on to deliberate the next major issue.

From a personal standpoint, I have a vision to afford each of my five children, and any more that I may choose to have in the future, an opportunity to build their residence on property that was handed down to me through four generations of family, "Irensia" in the vernacular.

What concerns me the most is having 230,000 PV panels engineered to withstand 175 MPH winds, next to where my children and grandchildren will be residing, break away during the next major storm and end up affecting the safety of the entire valley. Remember that the last major typhoon, Pongsona, had sustained winds of 173 MPH, and we are due for another storm which on the average occurs every four years on Guam. There is no disputing the fact that we are in Typhoon Alley, because of the inter tropical convergence zone around us.

Additionally, engineers have pointed out that the panels will be toxic waste when no longer able to be used, creating a health and welfare issue for the surrounding property totaling 700 acres should the panels become typhoon debris.

I object to the granting of this conditional use on this particular property, and in this particular area because they have not met the burden of proof that it is in the interest of the community with respect to these three legal mandates.

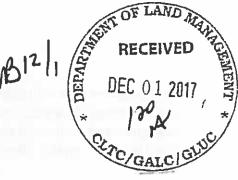
I offer a recommendation for this project to be approved in the area of the island that already houses the first solar farm, is going to accommodate a second solar project, and has ample land to allow a third project to run unimpeded in an area of compatible industrial uses away from any residences.

I am available for questions.

Si Yu'us Ma'asi yan Feliz Navidad.



Marcel G. Camacho senmarcel@gmail.com 671-686-2265 Catherine Nelson Illarmo 153 Dama de Noche Lane Latte Heights Estates Mangilao, Guam 96913



November 29, 2017

John Arroyo, Chairman Guam Land Use Commission P.O. Box 2950 Hagatna, Guam 96932

Hafa Adai,

Commissioners, I am calling on you to reject the proposed Mangilao Solar Plant Photovoltaic Facility at Lot 1, Tract 1541, Sasajyan, Municipality of Mangilao, Guam. After much consideration of the benefits of the plan, especially in light of GPA's recent announcement regarding rate increases, I believe that the long-term harm caused by the plant on the land far outweigh the anticipated benefits.

The plant would irreparably alter Sasajyan.

My grandfather, Marcello Sgambelluri, bequeathed Sasajyan Valley to his heirs to ensure their future, and he taught that the land was a resource meant to keep us sustained and nourished, and is deserving of respect. The proposed plant will forever change the land use.

First, the land has traditionally been a place where our family has built homes, raised crops, and enjoyed nature. Since our retirement, my husband John and I have developed our property as a source of food for our family and a relaxing venue for family gatherings. Sasajyan's tranquility and beauty has never been spoiled by industrial use. Allowing the plant would be the tip of the iceberg, forever altering the use of the land and potentially opening the door for further industrial use.

Second, the plant would constitute blight, covering 175 acres with 230,000 solar panels. The developers stated that the area would be surrounded by fencing topped with barbed wire, which will detract from the beauty and tranquility of the scenery and imposes an ominous atmosphere.

The plant could have disastrous environmental effects.

As laid in their plan, the developers admitted that the plant would not survive a super typhoon. The developers stated that the plant would be able withstand 175 mile per hour winds. Our island has a history of powerful typhoons with winds in excess of 175 mile an hour. The foundation will probably withstand the strong

winds however it is doubtful that the panels will hold up creating safety hazard to the surrounding areas. The debris most certainly will contain chemicals that will present a health hazard to people, plants and animals. The same can be said about the danger of earthquakes causing damage to the panels.

The contamination of the soil will most certainly result in contamination of ground and ocean waters. I question the safety of the waters despite the assurance that storm waters will be managed on site. Battery Leakage and corrosion of structures will seep into our water lens, contaminating our water source. Furthermore, water runoff to the ocean will poison our sea life and food source.

Guam taxpayers will have to pay to decommission the plant.

The project is slated for 25 years. After that, it is unclear what would happen to the 175 acres of currently unspoilt property. The developers stated that after the 25 years, the Government of Guam will have the option of acquiring the plant. Why would the Government of Guam want to purchase the plant when the panels only have a lifespan of 20 years? Why would the we want to use taxpayer money on, by then, outdated technology? The current plan would most likely result in Guam taxpayers assuming the responsibility of replacing and safely disposing the panels. How will the damaged or obsolete panels be disposed off since they would be considered toxic waste? Will the developers dispose of the panels properly without causing additional contamination?

The plant could adversely affect health

Daily we read and hear of additional chemical contaminants found in our land, water wells and surrounding ocean. CHamoru and other long time residents of Guam are experiencing a high rate of cancer and other ailments associated with chemical waste improperly stored and/or indiscriminately applied. I fear that the creation of the solar plant at Sasajyan will be a potential source of contaminants in the valley and the surrounding ocean.

Additionally, the adverse effects to the body due to exposure to electromagnetic fields and radiation have been supported in many studies. Of special concern is for our children's health who may reside or spend time near transmission lines. The proposed project is said to utilize the existing power poles in place instead of placing the transmission lines below ground.

The plant could adversely affect economic development

Guam's primary source of revenue is through tourism. The solar plant at Sasajyan will detract from the valley's potential as a recreational and lodging venues in support of our tourism economy.

In closing, I wish to thank the Commission for the opportunity to express some of my concerns. I urge you, the members of the Commission, to deny the proposed development. Furthermore, that the Commission request that the developers find an alternate site which would be more compatible with the project. I pray that you will address the above concerns as you deliberate your decision. Si Yu'os Ma'ase

Respectfully,

atherine N. Illarmo

December 13, 2017

Mr. John Arroyo
Chairman, Guam Land Use Commission
c/o Department of Land Management
P.O. Box 2950
Hagatna, Guam 96932

Re: Application No 2017-39 for a Solar Farm Development in the Sasajyan Valley

Dear Mr. Arroyo:

As the owner of Lot 5354-3A-6-RI-6, I respectfully submit the following testimony relating to the Solar Farm development in the Sasajyan area.

I am opposed to this development in our valley for the following reasons:

- Our family has near and long term future plans to develop our property as a residential community.
- Our property is situated immediately adjacent to the proposed development site.
- A large scale solar farm and the proposal for conditional rezoning to industrial specifically for the solar farm for 25 years will impact the value of our land and any future land development potential.
- Land owners and residents safety concerns have not been



adequately addressed related to potential hazards a large solar farm has to the health, physical safety and design specification ratings for typhoon strength winds greater than 175 mph.

- The developer has no obligation to contribute to improvements of the water, sewage and communication infrastructure throughout the valley for the benefit of neighboring landowners.
- The Sasajyan valley land owners have a right to protect and preserve our ancestral lands and cultural identity.
 Care must be taken to prevent displacement of indigenous people's rights in the name of progress.

For these reasons, we urge the Land Use Commission to seek other large tracts of land for its alternative energy initiatives.

Sincerely,

anet M. Camacho

Landowner

Written Testimony - GLUC Application 2017-39

Tom Camacho <tom.camacho@gmail.com>

Wed 12/6/2017 1041 AM

to LAND MGT DIRECTOR < LANDMGTDIRECTOR@land.guam.gov >;

C-Vince Camacho <vince.camacho@gmail.com>;

@ 1 attachment

GLUC Letter - John Arroyo pdf;

Hafa Adai Mike

Please accept my written testimony expressing concerns on GLUC Application 2017-39. As property land owners in the Marbo Cave area, we wholeheartedly oppose the approval of the owner's application for conditional use of the property for the purposes of constructing a ar plant. Our concerns are outlined in the attached document.

Thank you,

Tom Camacho 488-8800

M312/6 RECEIVED RECEI

December 6, 2017

Mr. John Arroyo Chairman Guam Land Use Commission 590 S. Marine Corps Drive ITC Building Suite 733 Tamuning, GU 96913

RE: Application for Conditional Use No. 2017-39

Hafa Adai Mr. Arroyo,

I am writing to express the concerns that I have regarding application number 2017-39.

First, the Applicant should be required to apply for a zoning change in addition to a conditional use permit. The proposed site of the solar facility is in an agricultural zone. Although Guam law does permit utilities and public facilities to be built in a A Rural Zone, the scope of this proposal far exceeds the standard facility. This is not just a matter of power poles or a water well being built. The proposal is to develop and build a solar farm over 300 acres of land. To give some perspective, I believe this is more than double the size of the Dandan Landfill. The Applicant should be required to apply for a zoning change to a light industrial zone.

Second, the proposal will have significant adverse impacts on the adjacent land uses. Standard uses for the A Rural Zone include single family dwellings, farming and fisheries. How could any surrounding landowners build homes or farms next to a 300-acre solar power facility? If this proposal is approved, it will basically transform the character of the entire area into an industrial zone, which is why the Commission should require a zoning change application.

Finally, there are potential negative impacts on the health, safety and general welfare of the community. I have not had sufficient time to review any comments submitted by EPA and other environmental agencies regarding the proposal, but note that there are potential impacts on Guam's aquifer and environmental resources noted in the application. Although the Applicant has said that access to Marbo Cave will not be impeded, it will be directly adjacent to a 300-acre solar power facility. It is difficult to enjoy a historic site next to a power plant.

The question ultimately becomes: why is there a need to spread out the impacts of solar power facilities all over the island? I believe that GPA already has rezoned and obtained the approval of a similar facility near Dandan.

Thank you,

Thomas R. Camacho

Property Owner – Marbo Cave Area

Thomas P. Camacho

488-8800